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**Oceans and the law of the sea: large-scale pelagic drift-net fishing, unauthorized fishing in zones of national jurisdiction and on the high seas, fisheries by-catch and discards, and other developments**

# Large-scale pelagic drift-net fishing, unauthorized fishing in zones of national jurisdiction and on the high seas, fisheries by-catch and discards, and other developments

## Report of the Secretary-General

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# I. Introduction

1. The General Assembly, at its fifty-second session, in its resolution 52/29 of 26 November 1997, took note of the report of the Secretary-General on large-scale pelagic drift-net fishing and its impact on the living marine resources of the world's oceans and seas, unauthorized fishing in zones of national jurisdiction and its impact on the living marine resources of the world's oceans and seas, and fisheries by-catch and discards and their impact on the sustainable use of the world's living marine resources (A/52/557). It also reaffirmed its resolutions 46/215 of 20 December 1991, 49/116 and 49/118 of 19 December 1994 and 51/36 of 9 December 1996 as well as other relevant resolutions and acknowledged the importance of the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks ("the 1995 Fish Stocks Agreement"), the FAO Code of Conduct for Responsible Fisheries, Agenda 21 and the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas ("the Compliance Agreement")[1] to the conservation and management of living marine resources.

2. In the same resolution, the General Assembly, while acknowledging with appreciation the measures taken and the progress made by members of the international community, international organizations and regional economic integration organizations to implement and support the objectives of Assembly resolution 46/215, and recognizing their efforts to reduce by-catch and discards in fishing operations, once again expressed deep concern at the continuing reports of activities inconsistent with the terms of resolution 46/215 and unauthorized fishing inconsistent with the terms of resolution 49/116.

3. In the light of those developments, the General Assembly reaffirmed the importance it attached to compliance with its resolution 46/215, in particular to those provisions calling for full implementation of a global moratorium on all large-scale pelagic drift-net fishing on the high seas of the world's oceans and seas, including enclosed seas and semi-enclosed seas.

4. The General Assembly therefore urged States and other entities, as well as relevant regional and subregional fisheries management organizations and arrangements that had adopted legislation, established regulations or applied other measures to ensure compliance with resolutions 46/215, 49/116 and 51/36 to enforce fully such measures. On the other hand, it also urged those that had not done so to take greater enforcement responsibility to ensure full compliance with resolution 46/215 and to impose appropriate sanctions, consistent with their obligations under international law, against acts contrary to the terms of that resolution.

5. Furthermore, the General Assembly called upon States to take the responsibility, consistent with their obligations under international law as reflected in the United Nations Convention on the Law of the Sea and resolution 49/116, to take measures to ensure that no fishing vessels entitled to fly their national flag fish in areas under the national jurisdiction of other States unless duly authorized by the competent authorities of the coastal State or States concerned, and that such authorized fishing operations should be carried out in accordance with the conditions set out in such authorization; and reiterated its call on development assistance organizations to make it a high priority to support, including through financial and/or technical assistance, efforts of developing coastal States, in particular the least developed countries and the small islands developing States, to improve the monitoring and control of fishing activities and the enforcement of fishing regulations, including through financial and technical support for regional and subregional meetings for that purpose.

6. The General Assembly also urged States, relevant international organizations and regional and subregional fisheries management organizations and arrangements to take action to adopt policies, apply measures, including through assistance to developing countries, collect and exchange data and develop techniques to reduce by-catches, fish discards and post-harvest losses consistent with international law and relevant international instruments, including the Code of Conduct for Responsible Fisheries.

7. The General Assembly further called upon States and other entities referred to in article 10, paragraph 1, of the Compliance Agreement that had not done so to accept the Agreement. The Assembly noted, on the one hand, the obligations of States outlined in Parts IV and V of the 1995 Fish Stocks Agreement relating to the conservation and management of straddling fish stocks and highly migratory fish stocks regarding non-members and non-participants and duties of flag States respectively, and, on the other hand, their obligations providing that no party to the Compliance Agreement should allow any fishing vessel entitled to fly its flag to be used for fishing on the high seas unless it had been authorized to do so by the appropriate authority or authorities of that party, and that a fishing vessel so authorized should fish in accordance with the conditions set out in the authorization.

8. In addition, the General Assembly welcomed initiatives undertaken in the Food and Agriculture Organization of the United Nations (FAO) to organize an expert consultation to develop and propose guidelines leading to a plan of action aiming at a reduction in the incidental catch of seabirds, to organize an expert consultation to develop and propose guidelines leading to a plan of action for the conservation and effective management of shark populations and to hold a technical consultation on the management of fishing capacity to draft guidelines for the control and management of fishing capacity.

9. Finally, the General Assembly requested the Secretary-General to bring the resolution to the attention of all members of the international community, relevant intergovernmental organizations, the organizations and bodies of the United Nations system, regional and subregional fisheries management organizations and relevant non-governmental organizations, and invited them to provide the Secretary-General with information relevant to the implementation of the resolution. The Assembly also requested the Secretary-General to submit to it at its fifty-third session and biennially thereafter a report on further developments relating to the implementation of resolutions 46/215, 49/116, 49/118, the status and implementation of the Compliance Agreement, and efforts undertaken in FAO concerning the preparation of plans of action to reduce incidental catch of seabirds, conservation and management of shark populations, and guidelines for the control and management of fishing capacity, taking into account the information thus provided.

10. Accordingly, the Secretary-General sent a note verbale to all members of the international community, drawing their attention to the relevant provisions of resolution 52/29. Letters were also addressed to relevant intergovernmental organizations, specialized agencies, organizations and bodies of the United Nations system, as well as regional and subregional fisheries management organizations, and relevant non-governmental organizations. A number of submissions and comments were received by the Secretary-General, who wishes to express his appreciation for all the contributions.

11. The present report, which takes into account those contributions, is submitted to the General Assembly in response to the request contained in resolution 52/29.

# II. Large-scale pelagic drift-net fishing

## A. General

### 1. Information provided by States

12. In its submission of 30 March 1998, **Switzerland** informed the Secretary-General that it had no fishing vessels flying its flag and therefore no Swiss vessels could have committed the violations referred to in General Assembly resolution 52/29.

13. In its response of 11 May 1998 to the Secretary-General, **Denmark** reported that since it had joined the European Union (EU) the management of fishery resources had become an EU exclusive competence. It also indicated that EU had introduced a ban on fishing with drift-nets longer than 2.5 kilometres.

14. In its submission dated 28 May 1998, **Colombia** stated that it supported resolution 46/215 and also informed the Secretary-General that it had no vessels flying its flag that were engaged in this type of fishery.

15. In its submission of 29 June 1998, **Cape Verde** informed the Secretary-General that it had no industrial fishing fleet and that its vessels, because of their small size, were not engaged in high seas fishing with large pelagic drift-nets.

16. In its reply of 2 July 1998 to the Secretary-General, the **Russian Federation** stated that it was not involved in any kind of commercial drift-net fishing.

17. In its response of 6 July 1998 to the Secretary-General, the **Islamic Republic of Iran** indicated that large-scale pelagic drift-net fishing was not applicable to the Iranian fishing fleet, which was primarily traditional. It added that the Iranian National Fisheries Company did not approve such a method of fishing because of its negative and disruptive effects on the coasts and traditional fishing practices and because it increased by-catches.

18. In its submission of 7 July 1998, **Japan** informed the Secretary-General that, in compliance with resolution 46/215, the Minister of Agriculture, Forestry and Fisheries had stated on 10 December 1992 that, as a basic policy, Japanese authorities would no longer permit or approve the conduct of drift-net fishing on the high seas beginning in 1993. In accordance with that policy, permission and/or approval for drift-net fishing had not been given to any fishing vessel.

19. In its response of 7 July 1998 to the Secretary-General, **Maldives** stated that it was opposed to any form of large-

scale drift-net fishing on the high seas and that any drift-net fishing was not allowed by the Fisheries Law of Maldives.

20. In its reply of 10 July 1998, **Norway** informed the Secretary-General that a national ban was in place with respect to large-scale pelagic drift-net fishing on the high seas.

21. In its response of 10 July 1998 to the Secretary-General, **Indonesia** informed him that it supported resolution 46/215 regarding the moratorium on the use of large-scale drift gill-nets and had taken measures to ban the use of such nets by setting a limit of 5 kilometres for their maximum size.

22. In its reply of 5 August 1998 to the Secretary-General, **Mexico** stated that it had complied strictly with the provisions of resolution 46/215 establishing a total moratorium on large-scale pelagic drift-net fishing and that from 1990 to date no commercial fishing permit had been issued to fishing vessels with nets longer than 2,000 metres.

23. In its submission to the Secretary-General dated 17 August 1998, the **United States of America** reported that since it had submitted its 1997 report on fisheries activities to the United Nations, it had taken additional actions to promote the implementation of the General Assembly's resolutions and decisions on large-scale pelagic drift-net fishing on the high seas, especially in the North Pacific and the Mediterranean. In that connection, it indicated that, on 11 October 1993, the United States secretaries of Transportation, Commerce and Defense had entered into a Memorandum of Understanding to enforce more effectively domestic laws and international agreements that conserved and managed its living marine resources. The Memorandum, required under section 202 of Public Law 102-582, the High Seas Drift-net Fisheries Enforcement Act, established a mechanism for the use of the surveillance capabilities of the Department of Defense for locating and identifying vessels violating United States marine conservation laws and international agreements, including General Assembly resolution 46/215. The Memorandum of Understanding also set formal procedures for communicating vessel locations to the Secretary of Commerce and the United States Coast Guard. The National Marine Fisheries Service and the Coast Guard have continued to utilize Department of Defense surveillance information for locating and identifying large-scale high seas drift-net fishing vessels in 1997 and 1998 and would continue to explore other possible uses of the Department's surveillance capabilities for the monitoring of drift-net fishing vessels and fishing activity.

24. In its response of 28 August 1998 to the Secretary-General, **Burkina Faso** stated that it had never taken any measures contrary to the provisions of resolution 52/29.

25. In its reply to the Secretary-General dated 11 September 1998, **Oman** reported that it had prohibited the use of drift-nets of more than 1 kilometre in width, while the Ministry of Agriculture had continued its education programme aimed at increasing awareness among fisherfolk of the damages caused by large-scale pelagic drift-net fishing.

### 2. Information provided by international organizations

#### (a) Specialized agencies of the United Nations system

26. In its reply to the Secretary-General dated 16 July 1998, the **Food and Agriculture Organization of the United Nations (FAO)** submitted the following report:

> "As far as FAO is aware, the Mediterranean Sea is the only region in the world where large-scale pelagic drift-net fishing gear (i.e., nets in excess of 2.5 km) is being deployed. The vessels which use this gear in the Mediterranean, and which target swordfish, are primarily of Italian and French flag.
>
> "In relation to the use of large-scale pelagic drift-net gear by members of the European Community (EC), the Council of EU in June 1998 decided to eliminate drift-nets over a period of three and a half years. As of 1 January 2002, the use of drift-nets to catch tuna and swordfish will be banned, and their use in salmon fishing will be restricted to costal waters. Drift-nets will still be authorized in the Baltic Sea, however, where by-catches of marine mammals are considered to pose much less of a problem. For this year's fishing season, the current maximum drift-net length of 2.5 km will remain in effect, but the number of vessels using drift-nets must be reduced by 40 per cent from the 1995–1997 reference period. Moreover, the Council and the Commission have pledged to approve flanking measures, including some for the conversion of boats into more selective types of vessels, before the end of 1998, retraining and laying up. However, no new EU aid is scheduled before the year 2000 to support such initiatives.
>
> "It was noted that this Council decision on this issue is the first time that 15 EU member States have taken a decision to ban a particular fishing gear. According to EC, during the period 1995–1997, the

number of vessels using drift-nets was 640 in Italy, 77 in France, 11 in Ireland and between 5 and 8 in the United Kingdom of Great Britain and Northern Ireland. In addition, 100 Spanish vessels use nets with an average length of 1.2 km in the Mediterranean Sea."

### (b) Organs, organizations and programmes of the United Nations

27. In its response of 10 April 1998 to the Secretary-General, the **Economic and Social Commission for Asia and the Pacific (ESCAP)** indicated that it did not deal with fisheries management and development as envisaged in the United Nations Convention on the Law of the Sea and therefore could not make any submissions requested by resolution 52/29.

28. In its reply of 13 May 1998 to the Secretary-General, the United Nations Environment Programme (UNEP) reported that, although large-scale pelagic drift-net fishing, fish discards and post-harvest losses had an impact on the survival of other marine resources in the high seas, it did not have, during the reporting period, any specific activity related to the implementation of the resolution. UNEP indicated, however, that through its regular support to developing countries, particularly within the context of its regional seas programmes, it had continued to ensure that relevant resolutions on fisheries were reflected in the execution of UNEP programmes in those countries. In particular, it had continued to assist developing countries in reviewing and providing comments on draft fisheries laws as and when requested by Governments to do so. In so doing, it had worked to ensure that the draft laws were in conformity with the fisheries conservation principles as reflected in the resolution.

### (c) Other intergovernmental organizations

29. In its response dated 12 May 1998 to the Secretary-General, the **Central American Bank for Economic Integration (CABEI)** indicated that it had not financed or supported any project or policies that had led to actions or measures contravening the enforcement of resolutions 46/215, 49/116, 49/118 or 52/29.

30. In its reply of 26 June 1998, the **Council of Europe** submitted to the Secretary-General a "Draft Resolution on the sustainable exploitation of living marine resources", which was provisionally adopted by the Committee on Agriculture and Rural Development of the Parliamentary Assembly on 23 June 1998, and which called upon member States, the European Union (EU), the Organization for Economic Cooperation and Development (OECD), FAO and other competent international organizations, *inter alia*, to adopt practical measures such as prohibiting drift-nets above a certain size and implementing General Assembly resolution 52/29. The resolution was adopted on 31 August 1998 in Lisbon on the occasion of the Parliamentary meetings of the Council of Europe on the Oceans.

### (d) Non-governmental organizations

31. In its response of 24 June 1998 to the Secretary-General, the **World Wide Fund for Nature (WWF)** indicated that it remained concerned at the continued use of large-scale pelagic drift-nets by fishing vessels from China, Italy, France, Ireland and other countries, in violation of resolution 46/215. WWF believed that the issue was worthy of special note in the report of the Secretary-General to the General Assembly and that such "chronic violations of United Nations resolutions" ought to be documented and exposed so that national authorities, whether they be the Chinese in relation to the North Pacific/Bering Sea activities, or others in that region or elsewhere, who felt compelled to prevent the use of large-scale pelagic drift-nets by their fishing vessels.

32. WWF commended the agreement brokered by the United Kingdom Government, in its role as president of the EU Council of Ministers, to phase in a ban on high seas drift-nets by EU fleets over the next four years and suggested that the Secretary-General recommend to the General Assembly to monitor EU compliance with the agreement to ensure that all fishing with large-scale pelagic drift-nets by EU vessels was phased out on schedule by 2002.

33. In its response to the Secretary-General dated 29 June 1998, the **Japan Fisheries Association** indicated that the national fishing industry had conducted large-scale pelagic drift-net fishery before it was banned by the United Nations resolution in December 1992. Although it was felt that the resolution seriously lacked scientific basis once it had been adopted, the Association had to comply with it as a supporter of regulated fishing operations. Accordingly, it had urged its members to stop using this type of fishery. In its view, there had not been any case of violation of the resolution by the Japanese industry since the adoption of resolution 46/215.

34. In its submission of 11 September 1998 to the Secretary-General, **Greenpeace** indicated that, following its campaign for the elimination of large-scale pelagic drift-nets in the early 1980s and the subsequent adoption of General Assembly resolution 44/225 of 22 December 1989, it had been actively campaigning for the implementation of the moratorium in EU waters and by EU vessels, including

conducting several at-sea expeditions in the Mediterranean Sea and in the North-east Atlantic to document and demanding enforcement action against EU vessels fishing with large-scale pelagic drift-nets on the high seas.

35. Consequently, Greenpeace was pleased to inform the Secretary-General that, on 8 June 1998, the EU Council of Fisheries Ministers had agreed to ban drift-net fishing on the high seas by all vessels flying the flag of EU States as of 1 January 2002, with the exception of the Baltic Sea. The decision of the EU Council had been based on two major considerations: firstly, on the fact that this type of gear had been widely demonstrated to be unselective; and secondly, on the recognition that the 1992 EU regulation limiting the length of drift-nets to 2.5 kilometres per vessel had proved to be difficult or impossible to enforce. In addition to the ban, the EU decision involved measures related to the conversion of drift-nets to more selective fishing methods for the same species, compensation for fisherfolk and owners who ceased drift-net fishing, retraining of fisherfolk either in new techniques or other forms of employment, and the decommissioning of drift-net vessels. Those measures would be the subject of an ad hoc Council decision based on a proposal from the European Commission to be adopted by the end of the year.

## B. Review by region

### 1. Atlantic Ocean

#### (a) Information provided by States

36. No States have reported any large-scale pelagic drift-net fishing on the high seas in the Atlantic Ocean.

#### (b) Information provided by regional and subregional fisheries organizations

37. In its submission to the Secretary-General dated 6 May 1998, the **Western Central Atlantic Fishery Commission (WECAFC)** indicated that there had been no reports of large-scale pelagic drift-net fishing in the Commission area during the 1997/98 period.

38. In its reply of 4 June 1998 to the Secretary-General, the **Northwest Atlantic Fisheries Organization (NAFO)** indicated that no large-scale pelagic drift-net fishing had been practised in the NAFO Convention area and no reports of such activity had been forwarded to it during 1997/98.

39. In its response dated 23 June 1998 to the Secretary-General, the **North Atlantic Salmon Conservation Organization (NASCO)** indicated that it was not aware of any fishing with large-scale pelagic drift-nets within the area covered by the Convention for the Conservation of Salmon in the North Atlantic Ocean.

#### (c) Information provided by non-governmental organizations

40. **Greenpeace** pointed out that data collected by French scientists in the North-east Atlantic had shown that, in addition to the target species (albacore tuna), 48 species were listed as being caught by drift-nets, thus demonstrating the lack of selectivity of this type of fishing gear. Greenpeace added that, following the ban on the use of drift-nets, more selective fishing gear would be available for fisherfolk in the region if they chose to continue to fish for albacore tuna, rather than convert to other non-selective methods and/or turn to fisheries which were already over-exploited.

### 2. Baltic Sea

#### (a) Information provided by States

41. In its reply to the Secretary-General dated 16 June 1998, **Finland** stated that no vessels flying its flag fished outside the Baltic Sea. It also indicated that no high sea areas existed in the Baltic Sea.

#### (b) Information provided by regional and subregional fisheries organizations

42. The **International Baltic Sea Fishery Commission (IBSFC)** indicated that it was not formally subject to the resolution on drift-net fishing since the Baltic Sea had no high seas area.

### 3. Mediterranean Sea and adjacent seas

#### (a) Information provided by States

43. In a note to the Secretary-General dated 1 June 1998, **Turkmenistan** stated that its national fishing companies carried out their activities in the Caspian Sea only and did not engage in large-scale pelagic drift-net fishing therein.

44. In its submission of 25 June 1998, **Croatia** informed the Secretary-General that the fishing gear referred to in General Assembly resolution 52/29 was not used in commercial or any other fishery in areas under its jurisdiction. However, it had prohibited from 1997 the issuance of new fishing permits for any gear used to catch large pelagic fish (drift-net, longline) in order to prevent any increase in fishing effort of highly migratory species, in accordance with the recommendations of international

organizations concerned with the preservation of those species.

45. In its reply of 29 June 1998 to the Secretary-General, **Monaco** stated that the Ordinance of 2 July 1908 on Marine Service and Marine Police (articles 15–26), which still regulated fishing activities in Monaco, prohibited the use of drift-nets in areas under its jurisdiction, as well as the use of such gear on board vessels flying its flag. It also advised that an ad hoc Working Group was currently considering incorporating the above-mentioned provisions in the future Marine Code of Monaco.

46. In its response dated 20 July 1998 to the Secretary-General, **Cyprus** indicated that it was not engaged in large-scale pelagic drift-net fishing either within or beyond its territorial waters.

47. In its reply of 28 July 1998 to the Secretary-General, **Azerbaijan** stated that it attached great importance to the observance of a global moratorium on all large-scale drift-net fishing on the high seas of the world's oceans and seas, including enclosed seas and semi-enclosed seas. It thus indicated that Azerbaijan conducted only sprat fishery in the Caspian Sea with vessels using equipment and conical nets which were selective and environmentally sound and were considered to be economically rational fishing gear and methods.

48. The **United States of America** reported that, as a follow-up to the United States-Italy drift-net Agreement (see A/51/404, para. 33; A/52/557, paras. 36–38) the Italian Government, as of 31 March 1998, had indicated that 419 of the 678 vessels in the Italian drift-net fleet had applied for compensation under the drift-net conversion plan. Of the 419 vessels, 338 would be retired. The United States also pointed out that, as of 21 July 1998, the Italian Government had completed administrative procedures for disbursing compensation to 122 vessels.

49. However, the United States stressed that in 1997 it had sighted six suspected large-scale drift-net fishing vessels operating in the high seas of the Mediterranean. One of the vessels that had set a large-scale drift-net of approximately 35 nautical miles north of Tunisia was identified as a vessel flying the flag of Italy. The United States had notified Italy of the sighting and provided it with all the evidence concerning the case. According to the United States, Italian enforcement authorities were currently investigating the case.

50. In addition, the United States announced that, since May 1998, Greenpeace had reported sighting 19 Italian vessels in the Mediterranean Sea with large-scale drift-nets. The United States had provided the appropriate Italian officials with information on the drift-net-vessel sightings and had requested, among other things, an official response from the Italian Government. In June 1998, Italy reported to the United States that 11 of the 19 vessels sighted engaging in drift-net fishing operations on the high seas had been inspected and eight violations had been documented (four net seizures and four penal sanctions).

### (b) Information provided by regional and subregional fisheries organizations

51. The **General Fisheries Commission for the Mediterranean (GFCM)** reported that, at its twenty-second session in October 1997, it had adopted a binding resolution concerning the use of large-scale pelagic drift-net gear. Resolution 97/1, taking into account General Assembly resolution 44/225, recommended that no vessel flying the flag of a GFCM Contracting Party was allowed to keep on board, or use for fishing, one or more drift-nets whose individual or total length was more than 2.5 kilometres. The resolution also recommended that the net, if longer than 1 km, ought to remain attached to the vessel. However, within the 12-mile coastal zone, a vessel was allowed to detach itself from the net, provided that it kept it under constant observation. GFCM also advised that the Italian Government was seeking to comply with United Nations, European Community and GFCM resolutions concerning the authorized maximum length of drift-nets, and indicated that the Government's plan had led to a substantial reduction in the number of vessels operating with nets in excess of 2.5 kilometres. However, GFCM also reported that the Italian coastguard was experiencing logistical difficulties in enforcing drift-net gear provisions.

### (c) Information provided by non-governmental organizations

52. In its submission to the Secretary-General dated 17 June 1998, the **Humane Society of the United States (HSUS)** provided the following information regarding the implementation of the United States-Italy Agreement on ending Italian drift-net fishing in the Mediterranean Sea (see A/52/557, para. 40):

> "The HSUS's monitoring of the agreement's progress for nearly two years has revealed that the conversion programme amounted to little more than a series of false starts with only a handful of participants. Legislation to increase penalties stalled in the Italian Parliament and the port closure was declared illegal by an Italian court.

"In April 1998, an Italian member of the European Parliament sponsored an initiative on drift-netting that included an attempt to gain funding and support for an Italian scientific drift-netting project using nets larger than 2.5 km in length. The project was to determine if large-scale nets could be utilized by Italian fisherfolk without harming marine life. This is something that has been debated and determined years ago to be unsupported by scientific studies.

"Members of the European Parliament soundly defeated the proposal before it reached the Parliament's plenary session, explaining in considerable detail why they opposed it. The Italian Government in June 1998 tried again through its own proclamation to create the scientific programme (to be potentially backed by private funds). Intense outside pressure finally stopped the project from going forward.

"On 8 June 1998, the European Union's Council of Fisheries Ministers, headed by the United Kingdom as Council President, took up a proposal to ban EU vessels from using drift-nets in all waters (with the exception of the Baltic Seas) by the year 2002. Italy along with France and Ireland firmly opposed the ban. Italy abstained in the vote despite its previous assurances to the United States Government that it would work towards the achievement of a complete ban."

53. In a further communication to the Secretary-General dated 16 September 1998, the Humane Society indicated that, following its numerous sea and harbour observations conducted in the Mediterranean during June 1998, it was able to confirm that illegal drift-nets had been used in 1998 and had also been kept on board by Italian fishing vessels. The average net length on smaller vessels was 5 kilometres, while larger vessels had nets with an average of 12 kilometres, with a maximum size of 25 kilometres. It expressed the view that the existence of a large number of vessels with illegal nets in some harbours seemed to confirm the belief that for some reason the Italian authorities were unable to control this type of fishing activity.

54. The Humane Society added that a worrying point about the reconversion programme, which was an integral part of the United States-Italy agreement, was that it did not have a mechanism of control to ensure effective implementation. The main problem was that there was a total absence of census of drift-nets, so that the subvention, which was a component of the reconversion programme, could be collected by the fisherfolk with no assurance that the nets had been totally eliminated, and not just transshipped to other vessels. The Humane Society therefore believed that it was fundamental to proceed to a census of all nets, to strengthen control of the licences and the number of vessels, and to impose sanctions on illegal vessels.

55. **Greenpeace** has pointed out that more than 80 per cent of the catch of the Italian drift-net fishing fleet in the Mediterranean was made up of by-catch. It also indicated that, in terms of control, it had been demonstrated that illegal drift-net fishing continued to be rampant in the Mediterranean in 1998 as it had been in previous years. Greenpeace's most recent expedition, in May and June 1998, had documented numerous instances of drift-net fishing in violation of resolution 46/215 and EU regulations, and it noted that a particularly revealing example involved the vessel *B. Colleoni*, which, although it had been arrested and fined by the Spanish authorities on May 1998, and its nets of over 6 kilometres in length had been confiscated, three weeks later had been found by Greenpeace to be fishing with a similar illegal net.

56. Greenpeace emphasized that, despite the more complex character of the situation in the Mediterranean owing to the great number of vessels and the continued search for acceptable alternatives following the EU ban, strict environmental criteria should be applied in any reconversion plan to ensure the adoption of selective fishing methods and avoid a repetition of the mistake which had been made by introducing drift-nets in the first place, without prior environmental assessment of their impact. Furthermore, Greenpeace warned against the reported sale of nets from Italy to fisherfolk of non-EU countries in the Mediterranean region.

57. Greenpeace expressed the view that the EU decision and the need to implement a wide ban on drift-net fishing throughout the Mediterranean Sea ought to be understood as part of an international movement towards responsible fishing as called for in the Code of Conduct for Responsible Fisheries and the 1995 Fish Stocks Agreement. Therefore, given the potential spread of drift-net fishing to other fleets in the region, it called upon all parties concerned to agree on such a ban through the two competent fisheries management organizations, namely GFCM and the International Commission for the Conservation of Atlantic Tunas (ICCAT).

### 4. Indian Ocean and Asia-Pacific region

#### (a) Information provided by States

58. In its reply of 4 June 1998, **Qatar** indicated that no vessels flying its flag were currently engaged in large-scale pelagic drift-net fishing, or using such gear.

59. In its report to the Secretary-General dated 2 July 1998, **Australia** indicated that, through section 13 of the Commonwealth Fisheries Management Act 1991, Australia prohibited the use of large-scale drift-net fishing in its fishing zone by its citizens and corporations fishing on Australian vessels. Although there were no regulations in place that banned the use of nets of less than 2.5 kilometres in length, the Australian Fisheries Management Authority had implemented the Government's closed port policy with respect to unlicensed foreign fishing vessels. It had only granted access to vessels where: (a) significant tangible benefits accrued to Australia, (b) the vessel was licensed regionally or conformed with a regional fisheries management arrangement (which included not undertaking destructive fishing practices or drift-netting), and (c) where the vessel may have been adequately monitored. Through this policy, no drift-net vessels or vessels directly supporting drift-net vessels had been granted access to Australian ports and foreign fishing vessels equipped with large drift-nets had been apprehended and prosecuted for fishing in Australian waters and had had their drift-nets forfeited and subsequently destroyed.

60. At the state level, drift-nets were not permitted under Tasmanian or New South Wales fisheries management legislation, large-scale pelagic drift-netting was not authorized for any fishery within the jurisdiction of Western Australia, South Australia or Victoria, and the use of pelagic nets longer than 2.5 km in length was prohibited in the Northern Territory. Australia also had concerns about the potential impact of drift-netting activity on the high seas in waters surrounding the country. In this connection, it pointed out that, in an initial recent survey of fishing debris conducted in the Northern Territory, nine pieces of netting believed to be drift-net material and thought to have come from outside the Australian fishing zone had been identified. The remains of sea turtles and other marine creatures were evident within many of the nets.

61. In its response of 3 August 1998 to the Secretary-General, **Mauritius** indicated that it did not allow drift-net fishing in waters under its jurisdiction (Drift-net Act 1992) and also banned transshipment in Mauritius of fish caught by drift-nets. It added that the Mauritius National Coast Guard had the power to stop, board, search, detain and arrest any vessel which contravened the provisions of the 1992 Act and to seize any drift-net and secure any fish caught by means of such net.

62. In two notes addressed to the Secretary-General dated 5 June and 8 September 1998 respectively, **Saudi Arabia** stated that its coastguard implemented the measures it had taken against large-scale pelagic drift-net fishing in accordance with the Kingdom's regime for the exploitation and preservation of living marine resources in areas under national jurisdiction.

#### (b) Information provided by regional and subregional fisheries organizations

63. The **Commission for the Conservation of Southern Bluefin Tuna (CCSBT)** advised that there had been no reports of fishing with large-scale pelagic drift-nets in its area of competence during the reporting period.

### 5. Pacific Ocean

#### (a) Information provided by States

64. In its reply of 1 May 1998 to the Secretary-General, **Fiji** stated that it is a State party to the Wellington Convention for the Prohibition of Fishing with Long Drift-nets in the South Pacific, which came into force on 17 May 1991, and that at the domestic level, its Fisheries (Amendments) Regulations of 1990 prohibit the use of pelagic drift-nets in Fijian waters. It also informed the Secretary-General that the Forum Fisheries Agency (FFA) maintained a regional register of all vessels which blacklisted those which did not comply with the licensing conditions in the region, with the tacit understanding that any blacklisted vessel would not be granted a licence in FFA member countries until its record had been cleaned.

65. In its reply of 28 May 1998 to the Secretary-General, **Colombia** stated that it supported resolution 46/215 even though this type of fishery was not carried out by vessels registered in its territory.

66. In its submission of 13 July 1998, **Niue** indicated that it had ratified the Convention Prohibiting Fishing with Long Drift-Nets in the South Pacific in April 1997, and to date no offenders had been brought to its attention.

67. In its submission of 29 July 1998, **New Zealand** informed the Secretary-General that it was a party to and a depository of the Wellington Convention for the Prohibition of Fishing with Long Drift-nets in the South Pacific 1989, which obliged parties to prohibit drift-net fishing by their own nationals and national vessels within the South Pacific; the Convention had been ratified by 12 States. New Zealand added that the Solomon Islands was the most recent State to

become party to the Wellington Convention following its ratification on 17 January 1998. It further indicated that it continued to have legislation in place with respect to drift-net fishing (Drift-net Prohibition Act 1991) and that no incidents had been reported within the New Zealand exclusive economic zone.

68. The **United States** reported that, through the 1993 Memorandum of Understanding on Effective implementation of the United Nations Drift-net Moratorium (see A/52/557, para. 49), the United States and China had continued to ensure effective implementation of resolution 46/215 in 1997 and 1998.

69. In this connection, the United States indicated that, in 1997, the United States Coast Guard, the National Marine Fisheries Service and the Canadian Maritime Forces continued to carry out surveillance activities in the North Pacific areas that in the past had been routinely fished by drift-net vessels. All Coast Guard operations were planned and executed in cooperation with enforcement officials from Japan, Canada and the Russian Federation. As a result of those actions, five drift-net vessel sightings had been reported in the North Pacific Ocean, of which one was seized by the United States as a stateless vessel while evidence on other vessels were turned over to their flag State. In addition, the United States Coast Guard had detected in 1998 seven vessels conducting large-scale pelagic drift-net fishing operations on the high seas of the North Pacific: five in the area south of the Aleutian Islands near the Russian Federation's exclusive economic zone. One was prosecuted by the Russian authorities for fishing approximately 50 miles inside its exclusive economic zone; two others were sighted retrieving drift-nets in areas adjacent to the Russian Federation's exclusive economic zone. They were later boarded by the United States Coast Guard and their custody was then transferred to the flag State.

70. The United States concluded that, of 12 vessels sighted using drift-nets in the North Pacific in 1997 and 1998, six had known connections to China and/or Taiwan Province of China, and added that both China and Taiwan Province of China had cooperated fully with the United States in investigating those drift-net cases.

### (b) Information provided by regional and subregional fisheries organizations

71. The **Permanent Commission for the South Pacific (CPPS)** reported that, in the South-east Pacific Ocean, and specifically within areas of national jurisdiction, there had been no reports of large-scale pelagic drift-net fishing during the reporting period.

72. The **Latin American Fishing Development Organization (OLDEPESCA)** advised that there had been no reports of vessels fishing with large-scale pelagic drift-nets in the Organization's area of competence last year.

### (c) Information provided by non-governmental organizations

73. **WWF** indicated that it had expressed concern in respect of two incidents in which Chinese fishing vessels employing large-scale pelagic drift-nets were pursued and apprehended by the United States Coast Guard in the North Pacific. According to news reports, the Coast Guard had sighted up to eight drift-net vessels operating illegally in the same region in late May and early June 1998. The vessels were using drift-nets several miles long and were believed to be targeting salmon. On 25 May 1998, another Chinese drift-net vessel had been fired on by Russian border guards in Russian waters of the Bering Sea, resulting in the loss of two lives aboard the fishing vessel. According to news reports, a 90-km drift-net was found aboard the fishing vessel, along with 50 tons of salmon.

74. In view of this situation, WWF called upon the General Assembly to encourage China and the Republic of Korea to join the 1992 Convention for the Conservation of Anadromous Stocks in the North Pacific Ocean, which bans fishing for salmon and trout in the North Pacific and provides for monitoring and enforcement of the worldwide ban on drift-net fishing.

## 6. Antarctica

### Information provided by regional and subregional fishery organizations

75. In its submission to the Secretary-General dated 7 April 1998, the **Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR)** reported that the matter of large-scale drift-net fishing had been discussed at the annual meeting of CCAMLR in 1990. This had resulted in the adoption of resolution 7/IX, which stated that, in accordance with General Assembly resolution 44/225, there would be no expansion of large-scale pelagic drift-net fishing into the high seas of the Convention area. CCAMLR also indicated that, since the adoption of its resolution, no cases of drift-net fishing activities had been reported in the CCAMLR Convention area.

# III. Unauthorized fishing in zones under the national jurisdiction of other States

## A. Information provided by States

76. **Denmark** stated that, according to its fisheries legislation, every person who was carrying out commercial fisheries in Denmark was registered as a professional fisher, and that a vessel could only be used to fish commercially if it had been registered in the general vessel register for all vessels, and in the specific register for fishing vessels which was kept by the Directorate for Fisheries. Thus, no fishing activities could be carried out unless such registration had been granted.

77. In addition, Denmark indicated that all fishing activities had to be carried out in accordance with the Common Fisheries Policy of the European Community, with Danish laws and with general or specific conditions set out in licences and relevant regulations and agreements. National fisheries laws applied to fishing activities that were not included in any specific regulation or fisheries agreement and also included surveillance, control and enforcement measures.

78. **Colombia** has advised that the National Institute for Fishing and Aquaculture is the competent national body in charge of safeguarding the sustainability of national fishing resources and, to that end, exerts strict control over vessels registered in Colombia or associated to Colombian companies, through the granting of fish permits, authorization and fishing quotas for each species, based on reliable statistics. Colombia also indicated that, as a member of CPPS, it has participated actively in the implementation of all programmes related to the 1995 Fish Stocks Agreement.

79. **Qatar** indicated that necessary measures had been taken to ensure that no unauthorized fishing was being carried out by foreign vessels in areas under its national jurisdiction.

80. **Saudi Arabia** stated that one of the tasks assigned to its Coast Guard was to monitor ships under its jurisdiction to prevent them from carrying out unauthorized fishing in zones under the jurisdiction of neighbouring States.

81. **Finland** has indicated that, through special licensing arrangements, fishing vessels flying its flag have the right to fish outside the 12-mile limit in the waters of Estonia, Latvia and Lithuania. However, they are required to obey community legislation and additional national regulations aimed at reinforcing monitoring and control.

82. **Cape Verde** stated that its fishing vessels had not been engaged in any fishing activities in zones subject to the jurisdiction of other States.

83. **Australia** stated that the issue of operations of vessels flying its flag in areas outside Australian waters was a matter for Commonwealth jurisdiction. While provisions of the Commonwealth Fisheries Management Act 1991 applied to vessels flying the flag of Australia outside its fishing zone, those provisions were, however, limited to areas specified in regulations under the Act, and to managed fisheries, such as the 200-nautical-mile zone off the Australian Antarctic Territory, and defined areas corresponding to the waters covered in sub-area 58.5.2 of CCAMLR, the South Tasman Rise, as well as the area of general distribution of southern bluefin tuna. However, the larger vessels flying the flag of Australia were part of domestically managed fisheries, in which a monitoring system had been implemented, enabling the authorities to monitor and alert vessel operators before they might undertake unauthorized fishing in areas under the jurisdiction of other States.

84. The Government of Australia also was actively exploring ratification of the 1995 Fish Stocks Agreement which, among other provisions, placed obligations on the flag State to monitor the activities of vessels flying its flag as well as their fishing activities in areas outside its jurisdiction. Should Australia ratify the Agreement, amendments to the Fisheries Management Act of 1991 would be required to make it an offence for vessels flying the national flag to fish in the exclusive economic zone of another country without the authorization of that country.

85. **Japan** indicated that it had prohibited its fishing vessels from entering areas under the national jurisdiction of other States for the purpose of fishing unless such vessels had permission to do so from the competent authorities of the coastal States concerned. Furthermore, Japan required vessels to obtain the permission and observe the regulations of the competent authorities of such coastal States as the condition for permission and approval for such vessels.

86. **Maldives** reported that none of its vessels conducted fishing activities outside its jurisdiction and they would continue to refrain from doing so unless they were duly authorized by the competent national authorities of other States.

87. **Norway** indicated that access for vessels flying its flag to the fisheries zones of other countries was regulated by international agreement with such countries, and that

national vessels could only fish in those waters upon the express consent and under such terms as were laid down by the countries concerned. In the event that a vessel flying the flag of Norway were to fish contrary to such provisions, Norwegian authorities were by statute empowered to take actions against such a vessel upon its return to a Norwegian port.

88. **Azerbaijan** stressed that it had adopted and established regulations to ensure that its fishing vessels did not conduct unauthorized fishing within areas under the national jurisdiction of other coastal States of the Caspian.

89. **New Zealand** indicated that it was in the process of developing legislation with specific provisions to deal with fishing in areas under the jurisdiction of other States by vessels entitled to fly the flag of New Zealand.

90. **Mauritius** reported that provisions had been incorporated in the Fisheries and Marine Resources Bill (to be enacted soon) requiring any vessel registered in Mauritius to obtain a licence in order to operate in the fishing zone of a foreign State. Under conditions to be attached to the licence, vessel operators would also be required to show proof of licences or authorization allowing them to fish in waters of other coastal States.

91. **Mexico** indicated that it had the appropriate legislation regulating the operations of vessels flying the flag of Mexico in areas under the jurisdiction of other States. Article 39 of the Fisheries Law and Regulations required vessels flying the national flag to obtain the authorization of the competent authorities prior to fishing on the high seas or in areas under the jurisdiction of other States, while article 40 provided that, in order to obtain such authorization, vessel operators had to comply strictly with international provisions concerning navigation and fisheries, particularly those established by foreign States in areas under their jurisdiction. In addition, article 75 of the same legislation provided that such authorization could be rescinded by the competent authorities in case of serious damage or imminent risk of damage to the ecosystem, or of non-compliance without justifiable cause with the general technical conditions established by such authorities.

92. The **United States** pointed out that, as a principal sponsor of General Assembly resolutions 49/116 and 52/29, it was particularly interested in ensuring that flag States fulfilled their obligation to prevent fishing vessels entitled to fly their national flag from fishing in areas under the national jurisdiction of other States unless duly authorized, and to ensure that those fishing operations were conducted in accordance with the terms and conditions established by competent authorities. In addition to being a source of international conflict, unauthorized fishing could have a deleterious impact on fishery resources and warranted the attention of all States. (For further comments by the United States on the subject, see A/52/557, paras. 66 to 70.)

93. **Oman** reported that, under the Marine Fisheries and Protection of Living Marine Resources Act promulgated by Decree No. 81/53, as amended, and the relevant implementing regulations issued by the Ministry of Agriculture and Fisheries, all fishing vessels and boats belonging to Oman were obligated to obtain a licence to engage in fishing. They were also required to comply with all maritime laws, incorporating the regional and international regulations approved by Oman. The legislation also placed an obligation upon such vessels to respect and implement rules and regulations adopted by the competent international organizations with respect to fishing in areas falling under the jurisdiction of other countries.

## B. Information provided by specialized agencies of the United Nations system

94. **FAO** reported it did not maintain specific records concerning the incidence of unauthorized fishing in zones of national jurisdiction. Nonetheless, the matter had often been raised and commented upon by members in their statements at fisheries meetings and consultations convened by FAO, for example, at the Regional Workshop on the adaptation of the Code of Conduct for Responsible Fisheries in West Africa (Benin, 1–5 June 1998). Many participants had referred to unauthorized foreign-flag vessel incursions very close to the shore into their exclusive economic zones and had commented upon their impact on artisanal fisheries production. These countries had stressed the fact that in order to address this situation effectively national and regional programmes in monitoring, control and surveillance (MCS) would be needed.

95. FAO pointed out however that, as part of its work on fisheries management, it had maintained a programme on fisheries MCS, advice and technical assistance to members on an as-requested basis. In this connection, FAO and Malaysia, in cooperation with Norway, had organized in June/July 1998 a workshop with the participation of 35 countries from the region. The workshop examined technical measures involved in MCS, including commonly accepted procedures and recent experiences with vessel monitoring systems (VMS), and provided a forum for participants to exchange information about the use of MCS in support of fisheries management. A field visit was also arranged to allow the participants to study the techniques used by the

Malaysian Department of Fisheries to conserve and manage resources and protect marine parks and reserves through patrols at sea. The project would be extended to countries of the Bay of Bengal and the South China Sea to strengthen their MCS at the national and regional levels.

96. In addition, FAO was involved in MCS advice in support of fisheries management in East Africa and the western Indian Ocean, through technical cooperation programme activities, studies and analyses in Seychelles, Somalia and Mauritius on appropriate approaches to improve MCS in the exclusive economic zones of those countries. Advice was also provided to an MCS project financed by Luxembourg in the Subregional Fisheries Commission area of Mauritania, Senegal, Gambia, Guinea-Bissau, Guinea and Cape Verde, as well as to specialists involved in setting up an EU-financed project for MCS in southern Africa.

97. VMS was being increasingly used by coastal States to monitor the activities of their domestic fleet and foreign vessels licensed to fish in their exclusive economic zones, and for flag States to ensure that vessels flying their flag did not conduct unauthorized fishing within areas under the national jurisdiction of other States. Finally, FAO would publish technical guidelines on VMS to assist countries wishing to use this technology to understand and implement it. The technical guidelines would also promote the standardization of equipment and message formats so that vessels might move easily from one jurisdiction to another.

## C. Information provided by regional and subregional fisheries organizations

98. **WECAFC** indicated that there had been reports of unauthorized fishing in zones of national jurisdiction in the 1997/98 period, but the majority of those reports had not been verified. The reports had dealt with unauthorized small-scale fishing between neighbouring countries in the region. Unauthorized fishing by industrial vessels (shrimping and longlining for large pelagics by vessels from outside the region), which was probably more important to the region, had been reported in the press, but again not verified. Additionally, a number of countries in the WECAFC region were in the process of improving their MCS capacity, which was not limited to fishing only.

99. **CCSBT** advised that it had not received any report of unauthorized fishing in any exclusive economic zone falling under its area of competence.

100. **IBSFC** reported that there had been no reports of unauthorized fishing in the Convention area during the 1997/98 period. It also advised that there were regulations in force concerning the yearly reporting of quota transfers and exchanges of quotas between the Contracting Parties, the reporting of vessels authorized to fish cod in the Baltic Sea, monthly catch reporting and monthly landings reporting by Contracting Parties.

101. **CPPS** advised that there had been no reports of unauthorized fishing in the exclusive economic zones of its member States.

102. **OLDEPESCA** has reported that the national fisheries administrations of its member States did not report regularly to it on matters relating to unauthorized fishing. However, it was aware of at least one case of unauthorized fishing by a foreign vessel in the exclusive economic zone of a member. The case involved the apprehension of the tuna vessel *Connie Jean* off the coast of Peru with 100 tonnes of tuna on board. The Peruvian authorities fined the vessel US$ 200,000 and donated the seized tuna to the local population.

103. **NAFO** indicated that there had been no reports of unauthorized fishing in the exclusive economic zones of its members during the reporting period.

104. **NASCO** advised that there had been no recent reports of unauthorized fishing for salmon in zones of national jurisdiction within the Convention area.

## D. Information provided by non-governmental organizations

105. **WWF** stated that it had been especially concerned over two issues: unauthorized fishing by distant-water fleets in the waters of developing countries and rampant, unauthorized fishing for Patagonian toothfish in the Southern Ocean. New information had revealed widespread unauthorized fishing by distant-water fleets from industrialized countries in the waters of developing countries which were ill-equipped to monitor and control fishing by sophisticated distant-water fleets in areas under their jurisdiction.

106. As an example of this, in 1995, more than 96 per cent of all fishing in Mauritania's exclusive economic zone was conducted by distant-water fleets and the very limited surveillance and enforcement capability of Mauritania had resulted in widespread overfishing. In addition, those fleets had continuously violated areas reserved for small-scale fisheries, had not always paid any fine imposed on them and, according to some studies, had paid only 33 per cent of the required fees to the Mauritanian Government.

107. In view of this situation, WWF has recommended that the Secretary-General urge the General Assembly to call upon FAO or other competent bodies to develop a code of conduct for distant-water fishing fleets that would address some of the most egregious of these problems, given the fact that neither the Code of Conduct for Responsible Fisheries nor the 1995 Fish Stocks Agreement had dealt comprehensively with the abuses of local authority and indigenous fishery resources by distant-water fleets.

# IV. Unauthorized fishing on the high seas

## A. Information provided by States

108. **Fiji** has informed the Secretary General that it was not aware of any vessels registered in Fiji fishing on the high seas. It also indicated that the FFA members were in the process of finalizing a regional management regime for the conservation and management of tuna in the Central and Western Pacific.

109. **Denmark** indicated that no fishing activities on the high seas could be carried out by Danish fishing vessels unless they had been authorized to do so by the Directorate for Fisheries, in accordance with the Common Fisheries Policy of the European Community, Danish laws and general or specific conditions set out in licences and relevant regulations.

110. **Turkmenistan** has stressed that its harvesting of straddling fish stocks (in particular, trout), done only for scientific purposes, was regulated by the recommendations of the Commission on Bioresources of the Caspian Sea, which was created in 1992 by fishing agencies of the Russian Federation, Azerbaijan, Kazakhstan and Turkmenistan.

111. **Qatar** has indicated that no vessel flying its flag was currently engaged in commercial fisheries on the high seas.

112. **Cape Verde** indicated that it had incorporated in its fisheries legislation the ICCAT recommendations regarding the capture of highly migratory fish stocks.

113. **Monaco** has advised that it was studying ways and means by which it could incorporate in a future legislation the conservation and management measures for straddling fish stocks and highly migratory fish stocks adopted by regional fisheries organizations or arrangements, as well as the possibility of establishing an authorization procedure for vessels flying its flag wishing to fish on the high seas.

114. **Australia** stated that regulations had been made to extend the application of the Fisheries Management Act 1991 to Australian vessels fishing for southern bluefin tuna on the high seas to ensure that Australia was able to give effect to its obligations under CCSBT. Similarly, regulations had been promulgated to ensure that it was able to give effect to its obligations under CCAMLR.

115. In addition, Australia indicated that in order to control fishing on straddling stocks in the Tasman Sea outside the Australian fishing zone, the Australian Fisheries Management Authority had also extended the application of the Fisheries Management Act 1991 to the adjacent area and implemented control over trawl fishing vessels through fishing permit conditions. Furthermore, in order to cover more broadly vessels flying its national flag, it intended to develop regulations, and where necessary to amend the Act, as part of the ratification process of the 1995 Fish Stocks Agreement.

116. The **Islamic Republic of Iran** informed the Secretary General that it had four vessels which fished occasionally on the high seas and were closely controlled and monitored on board by official company observers.

117. **Japan** stated that it had not yet completed the procedure to accept the FAO Compliance Agreement. However, almost all contents of the Agreement such as the system for permission or approval of fishing vessel operations on the high seas, the marking of such vessels, the obligation to keep records of fishing vessels and approval by the Minister of International Trade and Industry with regard to export of fishing vessels had been implemented by existing national laws, such as the Fisheries Law, the Fishing Boat Law, the Export Trade Control Order and other regulations under the Fisheries Law. Accordingly, on the basis of those laws and regulations, no Japanese fishing vessels were allowed to fish on the high seas without authorization.

118. In addition, Japan noted that, although the ratification procedure for the 1995 Fish Stocks Agreement had not yet been completed, some of the important provisions of the Agreement, such as fisheries management, international cooperation, data collection and the obligation of flag States, had already been implemented by existing national laws. In this connection, Japan pointed out that it had provided for the appointment of fisheries enforcement officers with competence to control Japanese fishing vessels by means of national fisheries laws and regulations.

119. **Maldives** indicated that it had an artisanal fishing fleet which only went out for day trips in areas under national jurisdiction and did not fish on the high seas.

120. **Norway** reported that it had introduced a regulation covering fishing activities in areas beyond national jurisdiction with the following elements: (a) the regulation applied to fishing vessels flying the Norwegian flag on stocks not regulated by national authorities; (b) it was prohibited to engage in such activities without prior registration (valid for one calendar year)at the Directorate of Fisheries; and (c) the Directorate of Fisheries could deny registration when: (i) the fishery was considered to be in contravention of Norwegian fishing interests, or (ii) there were international agreements in place, or (iii) the fishery was regulated by a regional fisheries management organization, or (iv) it was in the interests of rational and sustainable execution or completion of fishing operations to do so. Furthermore, the Directorate had the power to delete any fishing vessel from the registration list if the vessel had violated any regulation in force for the area concerned; fishing vessels operating on the high seas were also under obligation to report to it when a fishery was commencing and ending, including weekly catch reports specified by species and areas.

121. In addition, Norway had introduced a regulation stipulating that an application for a licence might be denied if the vessel or the vessel's owner had taken part in an unregulated fishery in international waters of a fish stock subject to regulations in waters under Norwegian fisheries jurisdiction. In short, a vessel could be denied a fishing licence in Norwegian waters even if it was operated by someone other than those who had actually participated in the unregulated fishery.

122. **Azerbaijan** stressed that it had taken effective measures in accordance with international law to prevent reflagging of vessels by its nationals for the purpose of avoiding compliance with applicable conservation and management rules for fishing vessels on the high seas.

123. **New Zealand** indicated that it was currently in the process of developing legislation with specific provisions to deal with fishing on the high seas by vessels entitled to fly its flag. Such legislation would enable it to ratify the 1995 Fish Stocks Agreement.

124. Furthermore, as a participant along with 15 other FFA States and major fishing parties in the Multilateral High Conference on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific, with a view to concluding an arrangement for the conservation and management of these resources in the region, and as a member of CCAMLR and CCSBT, New Zealand recognized the importance of subregional and regional management organizations and arrangements in the management of straddling fish stocks and highly migratory fish stocks. It therefore had the capacity to prescribe regulations governing fishing on the high seas by vessels entitled to fly its flag to ensure that they complied with the management measures of subregional and regional management organizations and arrangements to which New Zealand was a party. New Zealand also was currently in the process of developing legislation in accordance with parts IV and V of the 1995 Fish Stocks Agreement regarding non-members and non-participants and duties of flag States respectively.

125. **Mauritius** stated that, in accordance with the provisions of its Fisheries and Marine Resources Bill (to be enacted soon), vessels flying its flag would have to obtain a licence in order to fish on the high seas; Mauritius would see to it that its vessels would not engage in any activity that undermined the effectiveness of international conservation and management measures. Moreover, Mauritius was a member of the Indian Ocean Tuna Commission (IOTC) and had signed the 1995 Fish Stocks Agreement on 25 March 1997.

126. The **United States** indicated that, as a sponsor of resolution 52/29 and a Contracting Party to the 1993 Compliance Agreement and the 1995 Fish Stocks Agreement, it had fully supported compliance with conservation and management measures established by regional fisheries organizations and arrangements. Accordingly, it provided the following report to summarize the measures it had taken to implement the two Agreements.

> "The United States implements the Compliance Agreement through the High Seas Fishing Compliance Act of 1995 (HSFCA). In accordance with the HSFCA, the Secretary of Commerce (Secretary) has promulgated regulations to establish a permitting system for high seas fishing vessels, collect application fees and provide notice of international conservation and management measures recognized by the United States. The regulations also specify unlawful activities and provide for appropriate enforcement, civil penalties, permit sanctions, criminal offences and forfeitures. Vessel identification and reporting requirements to be applicable to vessels fishing.
>
> "HSFCA requires the Secretary to issue permits to United States vessels that fish on the high seas; such permits have been issued since April 1996. To date, approximately 1,100 permits have been issued. The permit application under HSFCA collects the information called for by the Compliance Agreement.

Also in accordance with the Compliance Agreement, this information is maintained in an automated file of high seas fishing vessels. On 13 August 1996, the Secretary conveyed to FAO those data required by the Compliance Agreement to be provided to FAO from time to time. Since then, the Secretary has conveyed additional information to FAO.

"In accordance with section 104 (d) of the HSFCA, and in accordance with the Compliance Agreement, the high seas permits issued are conditioned to require the permit holder to act in compliance with all international conservation and management measures recognized by the United States. By so conditioning permits, the United States has acted to prohibit vessels flying the United States flag from engaging in fishing operations for straddling fish stocks or highly migratory fish stocks, whether or not the United States is a member of, or participant in, the relevant management organization or arrangement for such stocks ...

"The United States believes that the most important action members of the international community can take to demonstrate support for the International Year of the Oceans, 1998, and to help ensure sustainable fisheries throughout the world is to become party to and to implement these important Agreements."

"..."

127. **Saudi Arabia** pointed out that it had taken measures, including licensing vessels flying its flag engaged on high seas fisheries, and had ensured that their fishing activities were consistent with international agreements governing the preservation of living resources.

128. **Colombia** informed the Secretary-General that, regarding conservation and management measures adopted by subregional or regional organizations, although it was not a member of the Inter-American Tropical Tuna Commission (IATTC), it was a member of the International Review Panel, so that it did exercise control over tuna fisheries.

129. **Oman** reported that any fishing licence issued by it for operations within its exclusive economic zone expressly prohibited fishing of any stock threatened with extinction or stocks under regional or international control. Any violation of those regulations would result in penalties in accordance with Oman law.

## B. Information provided by specialized agencies of the United Nations system

130. **FAO** reported that, in support of the Compliance Agreement, it had established in 1995, with funding provided by Canada, a High Seas Vessel Registration Database System (HSREG) to facilitate monitoring of vessels licensed to fish on the high seas. The database currently contained information on a total of 621 licensed vessels from Canada and the United States. All data input to the HSREG database as well as its maintenance was currently undertaken by FAO, but plans had been under consideration to permit user input through a secure Internet site. FAO anticipated that the volume of licensed vessels in the database would increase significantly in the future.

131. Even though the Compliance Agreement had not yet entered into force, some of its elements were already being adopted by countries as their respective fisheries legislation was revised and other policy changes implemented concerning national authorizations for vessels to fish on the high seas. In this connection, FAO pointed out that the Agreement sought to ensure that there was effective flag State control over fishing vessels operating on the high seas. This would require, *inter alia*, that parties to the Agreement maintained a register of vessels fishing on the high seas and that all vessels engaged in such fishing operations were authorized to do so. The Agreement also required that certain records concerning the physical characteristics of the vessels and their ownership and operational details, be maintained by the parties as part of their flag State responsibilities. It further put parties under obligation to exchange information maintained on their respective registers through FAO and other appropriate global, regional and subregional fisheries organizations.

132. Furthermore, as part of the follow-up to the Compliance Agreement, the Food and Agriculture Organization of the United Nations had continued to monitor the issue of reflagging. The number of vessels reflagged during the period 1994/97 had increased to nearly 3 per cent of the fleet per year (vessels over 100 gross tonnes). The vast majority of these had been in the course of normal transactions involving a change of ownership, since only about 15 per cent of the reflagging had involved a change to a "flag of convenience". Nevertheless, the number of flagged vessels under open register or flag of convenience had remained at approximately 5 per cent of the total fleet, and whereas the number of fishing vessels registered in Panama (412) and Honduras (430) had decreased, those registered in Saint Vincent and the Grenadines (139), Belize

(158), Vanuatu (35) and Cyprus (32) had continued to increase.

133. Additionally, FAO had continued to promote acceptance of the Agreement so that it could be brought into force as soon as possible and had written again in May 1998 to all Members that had not done so to consider accepting it. To date, the Agreement had been accepted by the following 10 FAO members: Argentina, Canada, European Community, Georgia, Madagascar, Myanmar, Norway, Saint Kitts and Nevis, Sweden, and United States. It would enter into force as from the date of receipt by the Director-General of FAO of the twenty-fifth instrument of acceptance.

## C. Information provided by regional and subregional fisheries organizations

134. **CPPS** has advised that there were no reports of unauthorized fishing in adjacent high seas areas of the exclusive economic zones of its member States.

135. **NAFO** reported that its General Council had been working on the problem of non-Contracting Parties fishing in the NAFO regulatory area and, as a result, had adopted a "Scheme to promote compliance by non-Contracting Party vessels with the conservation and enforcement measures established by NAFO". The scheme presumed that a non-Contracting Party vessel sighted engaging in fishing activities in the NAFO regulatory area was undermining the NAFO conservation and enforcement measures. If such vessels entered into the ports of Contracting Parties, they ought to be inspected. No landings or transshipments would be permitted in Contracting Party ports unless such vessels could establish that certain species on board had not been caught in the NAFO regulatory area, and for certain other species that the vessel had applied the NAFO conservation and enforcement measures. Contracting Parties had to report the results of inspections to NAFO and all Contracting Parties. In addition, NAFO had undertaken diplomatic initiatives with the flag States whose vessels fished in the NAFO regulatory area in 1996/97, namely Belize, Honduras, Panama and Sierra Leone (see A/51/645, para. 164).

136. **NASCO** advised that there had been no recent reports of unauthorized fishing for salmon on the high seas within the Convention area. It also indicated that it had not undertaken any action to promote or encourage the implementation of the Code of Conduct and the Compliance Agreement, although some NASCO Contracting Parties had deposited instruments of acceptance of the Agreement.

137. **WECAFC** reported that two countries, St Kitts and Nevis and the United States, had accepted the Compliance Agreement. Other States in the region had incorporated some of its elements in their fisheries legislation regarding national authorizations for vessels to fish on the high seas. In that respect, WECAFC indicated that FAO had provided technical assistance to the members of the Organization of Eastern Caribbean States (OECS) in the preparation of a draft bill entitled "Harmonized OECS High Seas Fishing Law" to be sent soon to OECS members for their review and adoption into legislation.

138. The **Northeast Atlantic Fisheries Commission (NEAFC)** stated that it had adopted a "Recommendation on a Scheme of Control and Enforcement in respect of Fishing Vessels in Areas beyond the Limits of National Fisheries Jurisdiction in the Convention Area". The scheme, which involved satellite-based vessel monitoring and an obligatory inspection presence by Contracting Parties with more than 10 vessels in the relevant sea areas, as well as a specific follow-up to serious infringements, was adopted at the NEAFC meeting in July 1998 and was anticipated to come into effect on 1 January 1999. The scheme would be the first such international scheme to provide data in a computer-readable form.

139. **CCAMLR** indicated that illegal, unreported and unregulated fishing in the Convention area had been considered at its 1997 annual meeting, particularly in relation to longline fishing of Patagonian toothfish. There was general agreement among members that: (a) the evidence of large-scale, illegal, unreported and unregulated fishing referred to by members during 1996/97 and at the beginning of the 1997/98 season seriously undermined the work of CCAMLR in achieving the Convention's objective; (b) the extent of existing illegal, unreported and unregulated fishing posed a serious threat to the conservation of stocks in the immediate future as well as the survival of several species of seabirds in the Southern Ocean as incidental by-catch in longline fishing operations; (c) there were reports of vessels of non-Contracting as well as Contracting Parties fishing in the Convention area, contrary to CCAMLR conservation measures in force; (d) all information received pointed, *inter alia*, to a blatant disregard by non-Contracting Parties of the CCAMLR conservation regime; and (e) the situation called for collective efforts within CCAMLR, including measures by flag States and coastal States and steps vis-à-vis non-Contracting Parties to enhance enforcement and compliance with conservation measures in the Convention area.

140. Accordingly, CCAMLR advised that it had started to develop an integrated set of new political and legal measures

to resolve this complex situation. These included the adoption in 1997 of: (a) a scheme to promote compliance by non-Contracting Party vessels with CCAMLR conservation measures (Conservation Measure 118/XVI); (b) a requirement that Contracting Parties license vessels flying their flag in the Convention area (Conservation Measure 119/XVI); and (c) vessel monitoring systems: amendments to the text of the system of inspection and mechanisms to address the actions of non-Contracting Parties (resolution 12/XVI). CCAMLR indicated that at its next meeting it would review the effectiveness of the adopted measures and, if necessary, develop additional measures, such as port State control and trade-related measures. It also invited all international and regional fisheries organizations to join in the exchange of information on illegal, unreported and unregulated fishing activities on the high seas.

## D. Information provided by other intergovernmental organizations

141. **OECS** reported that members and associate States of the organization, with assistance from FAO, had participated in a regional workshop in July/August 1997 on the implementation of the Compliance Agreement and the 1995 Fish Stocks Agreement. In addition, a draft bill adopted at the end of the workshop, to be approved later by respective Government members, would provide for the establishment of a system for the regulation of fishing vessels of member countries operating outside areas under national jurisdiction.

142. The draft bill would additionally apply, *inter alia*, to any fishing vessel of a State and to any act or omission occurring on or by such a vessel, wherever that vessel might be, as well as to any act or omission by an authorized officer on the high seas. Specifically, the draft provided that the authorities responsible for fisheries would not issue a high seas fishing permit in respect of a vessel unless they had been satisfied that the State would be able to exercise effectively its responsibilities with respect to that vessel under the Compliance Agreement, the 1995 Fish Stocks Agreement and international conservation and management measures recognized by it. Fisheries authorities could also cancel or suspend a high seas fishing permit where they had determined that the vessel in respect of which the permit had been granted had engaged in activities undermining the effectiveness of international conservation and management measures.

143. OECS also indicated that in 1997, in order to improve the monitoring and control of fishing activities and the enforcement of fishing regulations of its Member and Associate States, it had organized in cooperation with the Canadian International Development Agency (CIDA) several fisheries prosecution workshops. The goal of the workshops was to support the development of harmonized subregional framework for the enforcement of fisheries legislation among OECS member States. The workshops also addressed the enhancement of the enforcement capacity of member States by improving the success rate of prosecuting violations; providing enforcement officers and court officials with a better understanding of scientific, technical and legal issues concerning the laws which they were to enforce; and providing an understanding of the use of technology in gathering evidence. As a follow-up to the project, a Fisheries Prosecution Manual and a Standard Operating Procedures Manual for Fisheries Enforcement were developed and had been implemented since May 1998.

144. OECS had also sought funding from United Nations Development Programme's special unit for Technical Cooperation among Developing Countries (UNDP/TCDC) for a study that would consider the legal options available to members for strengthening subregional and regional cooperation in enforcement, including port State enforcement under the 1995 Fish Stocks Agreement and the Compliance Agreement, taking into account the Code of Conduct for Responsible Fisheries. It was also seeking financial assistance from UNDP's Caribbean Small Island Developing States Technical Assistance Programme (SIDS/TAP) to organize a regional enforcement workshop aimed at outlining a regional strategy and implementation plan for enhanced monitoring, control and surveillance systems to meet regional needs in fisheries and other ocean-based activities. In addition, OECS was seeking funding for the implementation of a coastal watch programme which would utilize fisherfolk, members of the coastal communities, national fisheries divisions and law enforcement agencies to provide information on activities within the maritime jurisdiction of coastal States. Such a programme could be an effective, inexpensive surveillance tool which would assist in the fisheries management of OECS countries.

## E. Information provided by non-governmental organizations

145. **WWF** expressed the view that it was particularly concerned with the widespread, uncontrolled and often illegal fishing for Patagonian toothfish in the Southern Ocean, fearing that the toothfish was being very heavily exploited before researchers had fully researched the

fundamentals of its biology and life history. In view of the fact that CCAMLR had been unable to deal effectively with this problem, WWF believed that the Secretary-General should bring the situation to the attention of the General Assembly with a view to adopting a resolution calling upon all States to take all measures necessary to prevent their vessels from fishing illegally for Patagonian toothfish in the Southern Ocean.

146. The **Japan Fisheries Association** stated that the Japanese fishing industry supported the very principle of controlling unauthorized fishing on the high seas. It had therefore urged the industry, when appropriate, to respect international rules and to operate in compliance with the regulations and instructions laid down by the Japanese Government.

147. **Greenpeace** reported that, as fisheries throughout the world were becoming depleted owing to the overcapacity of the world's large-scale industrialized fishing fleets, more and more fishing companies were turning to the Southern Ocean, the area around Antarctica, the southern cone of Latin America, the sub-Antarctic islands of South Africa, Australia, New Zealand, France and international waters to fish illegally for Patagonian toothfish, in contravention of the legal allowable catch limits set by CCAMLR. During the past three years there had been an increasing number of illegal and unregulated fisheries of the species in response to high prices offered in Japan and the United States, the main markets for toothfish. Fishing companies, *inter alia*, Japan, Norway, Portugal, South Africa, Argentina, Namibia, the United States, Belize, Malta, Spain, Singapore, Honduras, Guinea-Bissau, Panama, Vanuatu, Chile, the Faroe Islands and Taiwan Province of China were involved in the fishery. Greenpeace also reported that Mauritius, South Africa, Namibia, Argentina and Chile had provided convenient transshipment ports for the illegal fishing fleets.

148. Greenpeace further pointed out that, according to the CCAMLR Scientific Committee, while the total allowable catch of Patagonian toothfish was 32,991 tons in 1997 and 18,000 tons in 1998, the total amount of illegal catch was estimated at about 100,000 and 130,000 tons respectively in those years; the assessments suggested that the species would be commercially extinct within three years if fishing was not brought under control. In addition, the high level of fishing could have an adverse impact on the Southern Ocean ecosystem.

149. Given the need for urgent action and, according to Greenpeace, in view of the lack of political will by CCAMLR members, Greenpeace had proposed a number of practical measures to respond to the illegal fishing crisis, including: (a) apprehending the violators; (b) increasing the penalties for illegal fishing; (c) use of satellite data to identify and track a vessel that had fished illegally; (d) use of mandatory vessel monitoring systems; (e) port controls; (f) market controls; and (g) better international management regimes.

# V. Fisheries by-catch and discards

## A. Information provided by States

150. **Fiji** indicated that, while by-catches and discards had caused difficulties in purse-seining operations, this did not present a problem for Fiji since no such operations were permissible there. Furthermore, observers from the Department of Fisheries were present on all local fishing vessels, that all fish caught were consumed locally.

151. **Denmark** stated that assistance to developing countries to reduce by-catches, fish discards and post-harvest losses was covered by general Danish programmes aimed at developing countries.

152. **Colombia** stressed that its vessels fishing for shrimps used "turtle excluding devices", in accordance with the standards required by national and international regulations.

153. **Qatar** indicated that it had implemented several measures intended to protect and preserve fisheries resources and the marine environment. Among those measures aimed at reducing by-catch was the prohibition of nylon fishing nets, the establishment of legal limits for mesh size, and other specifications for nets used in fishing operations.

154. **Finland** indicated that the competent regional fisheries body in the Baltic Sea was IBSFC and that its fishing rules, which were binding on the States members of the European Community through the Community's legislation, provided that certain technical measures were to be used to avoid by-catches and discards.

155. **Croatia** informed the Secretary-General that, since almost all fishing gear used for fishing in its territory was highly specialized for particular species, classes or groups of species, by-catch was insignificant. The current type of fishing gear conformed to most standards relating to the preservation of species caught as by-catches.

156. **Australia** reported that section 1 (b) of the Commonwealth Fisheries Management Act 1991 had addressed the catch of non-target species in its objectives and that, under the Australian Fisheries Management Authority, the exploitation of fisheries resources and related

activities were conducted in a manner consistent with the principles of ecologically sustainable development and the precautionary principle, in particular the need to take into account the impact of fishing activities on non-target species and the long-term sustainability of the marine environment. A recent amendment to the Act, which had necessitated a review of current management plans, provided that all management plans for a fishery ought to contain provisions to reduce the catch of non-target species to a minimum. Therefore, as a result of the arrangements between the central Government and the respective states, known as the Offshore Constitutional Settlement, each fishery had to include specific limits on the take of by-catch species and require the collection of data in respect of retained and discarded by-catch.

157. Growing concern on the part of the fishing industry and the public at the impact fishing operations might have on the marine environment had prompted Australia to develop two new policies on by-catch: a by-catch policy at the Commonwealth level, and a national by-catch policy at the state, territory and Commonwealth governments level. At the central level, the Commonwealth by-catch policy was aimed at ensuring better consideration and management of both direct and indirect impacts of fishing on marine systems and providing a framework for specific by-catch action plans. The national by-catch policy at the state and territory and Commonwealth governments level would give flexibility to governments on how to address the issue of by-catch, including actions that needed to be taken in consultation with stakeholders, such as determination of acceptable and sustainable levels of by-catch as well as by-catch reduction and protection of vulnerable or endangered species listed under the Commonwealth's Endangered Species Protection Act 1992.

158. With regard to assistance to developing countries, the Australian Agency for International Development had contributed to fisheries management aid projects relevant to the reduction of post-harvest losses and discards in a number of regional fisheries organizations with the participation of developing countries. In this connection, the Agency had provided funding to FFA and to the South Pacific Commission for the assistance of a fisheries management adviser and a women's fisheries development officer respectively. Australia was also the main donor to FFA, providing 37 per cent of its annual operating cost, as well as funding specific extrabudgetary activities of the organization. Furthermore, at the state level, the Northern Territory in 1997 hosted an international workshop on selective shrimp trawl devices, including consideration of the research undertaken in developing trawl by-catch reduction, with the participation of representatives from South-East Asia, India and Africa.

159. **Japan** stated that it had taken measures to ensure that national fishing vessels complied with decisions and recommendations on the reduction of by-catches adopted by international fisheries organizations such as CCBST and NAFO. For example, in accordance with the decision of CCBST, it had required national longline tuna fishing vessels which intended to operate south of latitude 30° to be equipped with proper devices for avoiding the incidental catch of seabirds.

160. **Maldives** reported that tuna caught by pole and line represented 83 per cent of the total catch, thereby reducing by-catches and fish discards to negligible levels. Moreover, improvements in technology and the promotion of awareness among Maldivians of the quality and standard of processing of catches had allowed post-harvest losses to be kept to a minimum. A tuna fish waste utilization project with assistance from FAO was also under way.

161. **Norway** reported that the basic instrument in the national management policy for achieving the most rational exploitation possible of fisheries resources had been the increase in the mesh size and in the minimum size of fish in order to avoid catches of small fish, since minimum size measures were particularly important as a basis for closing fishing grounds with an abundance of juvenile fish.

162. Norway's philosophy on discards was reflected in the Salt Water Fisheries Act, which banned the discard of all economically important species. All fish caught within national waters, regardless of size, had to be brought to port and those portions of the harvest caught as by-catch would be confiscated upon landing and deducted from the quotas. In order for the fisherfolk to avoid areas of concentration of juvenile fish, Norway had developed a very successful programme under which areas where the intermixture of juvenile fish had risen above certain levels were closed temporarily until the intermixture had decreased the required extent.

163. Since the long-term closure of fishing grounds could cause problems for fisherfolk, Norway had focused its long-term efforts on improving the selectivity of trawl gears through the development of grid technology in the shrimp and cod fisheries, which had yielded cleaner catches and fewer damaged shrimp. The use of grid technology in the shrimp and cod fisheries became compulsory in 1993 and 1997 respectively.

164. Norway's mackerel fishery is regulated, with individual vessel quotas, and since there is a significant

difference in price between the large and small fish, which gave fisherfolk a strong incentive to discard the smaller ones. Norway had chosen a different approach with this fishery. On the basis of the scientific assessment of the expected average size and composition of the catches, it had decided to divide the individual vessel quota into two parts: one quota for large and another for small mackerel, with a view to reducing the problem as much as possible.

165. Finally, despite the difficulty Norway had encountered in enforcing a discard ban, the very existence of such a rule had been beneficial in changing attitudes and discouraging the practice of discarding. The combination of such measures as temporarily closed areas and improved gear selectivity had had a positive impact on the development of a more sound exploitation pattern.

166. **Indonesia** indicated that its Government had issued Decree No 930/Kpts/Um/12/1982, which made the application of a by-catch excluder device compulsory for shrimp trawl fishery.

167. **Niue** reported that no progress had been made in reducing by-catches, fish discards and post-harvest losses. However, as a condition for the issuance of a licence to foreign fishing vessels, they had to keep a record of losses in terms of type and quantity and also to consider offloading some of the by-catches and discards in Niue.

168. **New Zealand** stated that it had introduced legislation (Fisheries Act 1996) which enabled the recovery of costs of "conservation services" incurred by government agencies as a result of commercial fishing activities, through the application of a levy on the fishing industry. Such costs related to research on (a) the adverse effects of fishing on protected species and (b) measures to mitigate those effects; plus the development of population management plans for marine mammals and seabirds under threat.

169. Approximately $NZ 1 million a year had been spent on investigating the adverse effects of the incidental mortality of seabirds and marine mammals in longline tuna fisheries and trawl fisheries respectively, and developing measures to reduce this. As a result, it had been made mandatory for national commercial fisherfolk to use bird scaring devices on all longline vessels, and the industry itself had developed a code encouraging the setting of lines at night when seabirds were less active. In addition, recent mitigation developments had included a marine mammal exclusion device for trawl nets, and experiments had been conducted with a view to improving underwater longline setting devices as well as the rate of descent of such lines.

170. New Zealand also continued to favour a consideration of the issues relating to seabird by-catch by international management regimes, particularly in respect of those species which bred in New Zealand but were caught by vessels outside its exclusive economic zone. It was therefore committed to working through CCAMLR and CCSBT to address these management issues. Finally, New Zealand had taken measures to discourage fish discard under the quota management system which required that all fish caught be landed in order to prevent dumping and minimize waste.

171. **Mauritius** indicated that no discard or by-catch was generated by artisanal and bank fisheries. For the tuna fishery, by-catch was very small, and effective use of it was made in the production of pet foods and fish meal. In addition, there were no post-harvest losses in Mauritius as it had appropriate communications networks and a high consumer demand.

172. **Mexico** reported that its Fisheries and Aquaculture Programme for 1995-2000 included two subprogrammes dealing with assessment, optimization and management of fisheries on the one hand, and research and technology development of catch processes in commercial fisheries on the other. Through the first subprogramme, Mexico had carried out an assessment of the most important resources and species under special protection at the national and regional levels, including, *inter alia*, the effects of fishing efforts. Optimization research focused on the more effective use and marketing of resources in order to reduce by-catch, with a view to using the integral part of the target catches and avoiding discards and wastes. Through the second subprogramme, Mexico had carried out comparative experimental fishing activities involving different methods used in commercial fisheries, particularly those providing selectivity and efficiency, with a view to establishing the relationship between the fishing methods, the resources and their habitats during the catch process.

173. Two other programmes had proved to be successful in the reduction of by-catch in commercial fisheries in Mexico. The first dealt with the reduction of dolphin by-catch in tuna fisheries with a 98 per cent reduction in the past 10 years through the use of certain devices, performing manoeuvres and the total monitoring of fishing activities. Similar excellent results were reached in the reduction of marine turtle by-catch in the shrimp fishery through the use of turtle exclusion devices on all Mexican shrimp vessels.

174. The **United States** indicated that, since its 1997 report to the Secretary-General, it had undertaken additional important steps to reduce fish discards and by-catch in domestic and international fisheries. Domestically, a recent

assessment of discarding in fisheries indicated that, of 159 distinct fisheries, discarding affected at least 149 species or species groups. Finfish, crustaceans and mollusks comprised a majority of these species or species groups, while protected species such as marine mammals, sea turtles and seabirds made up of most of the rest. Consequently, following the passage of the 1996 Sustainable Fisheries Act (SFA) (amending the Magnuson-Stevens Fishery and Conservation and Management Act (MSFCMA)), which had created an obligation to minimize by-catch, and if unavoidable, to minimize the mortality of such by-catch, all current and future fishery management plans and any regulation designed to implement such plans ought to be consistent with the new obligation.

175. The United States National Marine Fisheries Service had prepared a National Bycatch Plan (see A/52/557, para. 97) to serve as a guide for current programmes and future efforts to reduce by-catch and by-catch mortality and took into account the interactive character of fishery resources and protected species belonging to the same ecosystems. The five major objectives of the plan were: (a) to determine the magnitude of by-catch; (b) to determine the population, ecosystem and socio-economic impacts of by-catch and by-catch mortality; (c) to determine whether current conservation and management measures minimized by-catch to the extent practicable and, if necessary, to choose new alternatives; (d) to implement and monitor the selected alternative; and (e) to improve public understanding of by-catch issues.

176. The United States was also actively involved in efforts to reduce by-catch and fish discards in international fisheries through international treaties and domestic legislation ( ibid., para. 98).

177. With regard to assistance to developing countries on by-catch reduction efforts, the United States Agency for International Development (USAID) was the primary independent government agency that provided foreign aid for civilian purposes. Since 1979, USAID had identified three main areas of fisheries assistance priorities: (a) stock assessments; (b) pond dynamics in aquaculture; and (c) post-harvest losses-spoilage and by-catch reduction.

178. **Oman** has indicated that by-catch, fish discards and post-harvest losses were a problem for Oman owing to the characteristics of a marine ecosystem embracing a multitude of different species. Oman had, however, begun to solve the problem by enacting restrictions and providing the necessary instruction and guidance to mitigate its impact. Currently, research efforts were being directed towards increasing the acceptability of species that had previously been discarded, in an attempt to find a market for them. The rest ..tions relating to fishing gear, such as those concerning the size of the openings in trawl nets, and the allotment of fishing activities (the prohibition of fishing in certain areas and in certain seasons) had the goal of reducing fish discards. Recently, Oman had also taken significant steps to improve infrastructure (fishing ports) and the design of fishing boats used by Omani fishermen and to make available essential facilities along its shores (such as cold storage and ice-making plants) so as to reduce post-harvest losses.

## B. Information provided by specialized agencies of the United Nations system

179. **FAO** reported that in March 1998 it had organized, in collaboration with the Government of Canada, an expert consultation on sustainable fishing technologies and practices in St. John's, Newfoundland. The primary goal of the consultation was to address ways and means of resolving the problem of discarding and dumping living marine resources, including discussion on: (a) ways to reduce discards through the use of selective gear and fishing practices; (b) investigation of methodologies to measure the impact of fishing activities in the habitat; (c) implementation of the recommendation of the consultation on a global basis; and (d) identification of appropriate mechanisms for the transfer of recommended technology. The consultation recognized that there had been several successful developments of fishing gear and practices in the past 10 years which had reduced the catch of juvenile fish and non-target species. Most of these developments had occurred in developed countries and the transfer of appropriate technology to less developed countries was considered desirable. The involvement of the industry was seen as the key to successful development and implementation of sustainable fishing technologies and practices. Reports from several countries demonstrated how industry participation had facilitated the acceptance of new technology aimed at reducing the catch of non-target species.

## C. Information provided by organs, organizations and programmes of the United Nations

180. In a report to the Secretary-General dated 14 July 1998, the **Economic Commission for Latin America and the Caribbean (ECLAC)** indicated that considerable investment had been made in the region so as to adopt

fishing gear to avoid dolphin and turtles incidental catches. Similarly, various countries in the region were requesting international technical and financial assistance so as to make use of by-catches to obtain fishery products of high nutritional value for low-income populations.

## D. Information provided by regional and subregional fisheries organizations and arrangements

181. **WECAFC** indicated that countries in the region that had shrimp trawl fisheries (e.g., Brazil, Colombia, Guyana, Mexico, Suriname and Venezuela) were now landing more by-catch for human consumption than in the past, partly as a result of the increasing demand for fish and higher prices for fish. Those countries had introduced turtle exclusion devices in an attempt to reduce by-catch from trawl fisheries. In addition, Venezuela was experimenting with the use of fish exclusion devices.

182. WECAFC also reported that FAO had organized in Cuba in June 1997 a regional workshop that addressed the issue of by-catch from shrimp trawlers. Another expert consultation on by-catch utilization in tropical fisheries had been organized in China in September 1998, to discuss prospects for greater utilization of by-catch for food security and the reduction of discards. WECAFC member countries such as Brazil, Cuba, Mexico, Venezuela and Guyana had attended the meetings and presented national case studies.

183. **IATTC** reported that its members and other countries involved in purse seining of tuna in the Eastern Pacific Ocean had entered into a voluntary agreement in 1992 (La Jolla Agreement) with the intention of reducing dolphin by-catches in the Eastern Pacific. The Agreement had been extremely successful; since its entry into operation, annual dolphin mortality incidental to purse seining had been reduced from about 16,000 in 1992 to about 3,000 currently. One of the important features of the programme was the transfer of technology for removing dolphins safely from purse-seine nets among all the nations involved. An observer programme whose primary purpose was to make observations on incidental capture and mortality of dolphins in the fishery had been established as a component of the La Jolla Agreement. Between 1993 and 1997, most of the vessels carried IATTC observers, who had also collected information on other by-catch taken by the vessels.

184. IATTC also indicated that in February 1998 the countries involved in tuna fishery had concluded a binding Agreement for the International Dolphin Programme that included stricter provisions for dolphin protection. It also had the objectives of reducing by-catch and discards and to achieve those objectives, it provided for measures that were consistent with the relevant provisions with the Code of Conduct for Responsible Fisheries and the 1995 Fish Stocks Agreement. At the fifty-eighth session of IATTC, in 1997, it was agreed to set up a by-catch working group (which began work in July 1998), the objectives of which were: (a) to define the relationships among by-catch and target species with special reference to the sustainability of the catches of all such species; (b) to develop gear technology that was effective in reducing by-catch to the maximum extent possible; and (c) to formulate and evaluate management schemes for reducing by-catch.

185. The **International Pacific Halibut Commission (IPHC)** reported to the Secretary-General on 10 April 1998 that by-catch of Pacific halibut in non-target fisheries of the North Pacific constituted the second-largest removal of the halibut population and had been monitored since the early 1960s. Since 1990, by-catch mortality had averaged 21 per cent of the total annual removals. Although IPHC had no direct management authority over by-catch on those other non-target fisheries, it had nonetheless worked closely with the halibut industry and agencies of the two Contracting Parties, namely Canada and the United States, in developing methods to reduce by-catch and discards of halibut.

186. Over the past 10 years, IPHC had been at the forefront of efforts to reduce halibut by-catch rates and improve the survival of discarded halibut by-catch. To reduce halibut by-catch, it had developed management proposals based on incentives rather than penalties. Those incentives involved reserving portions of yields from target stocks and allocating the reserves, on a preferential basis, to those vessels that had demonstrated lower by-catch mortality. It had also assisted in refining by-catch management by developing halibut discard mortality rates for individual non-target groundfish fisheries, based on direct observations of halibut condition and tag-recapture studies. IPHC furthermore had incorporated by-catch removals into its stock assessments and harvest policy. Such management decisions dictated that by-catch mortality was counted directly as removal annually, and long-term harvest rates were developed to account for the by-catch mortality in setting yields.

187. IPHC further indicated that concern over by-catch by the two Contracting Parties had led to the formation of the Halibut By-catch Work Group in 1991, to review and evaluate halibut by-catch problems in each national zone. Recommendations for research and by-catch reduction programmes, including targets and timetables for reduction of by-catch mortality, were developed jointly and had

provided the basis for recommendations to the Canadian and the United States Governments.

188. **NAFO** indicated that the regulatory measures on by-catch and discards as well as, on incidental catches were strongly engraved in NAFO's Conservation and Enforcement Measures (incidental catch limits, by-catch recording, minimum fish size and minimum mesh size) and that there were several important provisions that constituted a legal basis and guidelines for NAFO inspectors and observers to enforce those provisions. The observers on board fishing vessels (100 per cent coverage) monitored all by-catch and discards and submitted their reports to the NAFO secretariat.

189. **NASCO** has advised that it had no new information relating to fisheries by-catch and discards. However, it was concerned about the possible by-catch of Atlantic salmon in pelagic fisheries in the North-east Atlantic and was taking measures, in conjunction with the International Council for the Exploration of the Sea (ICES), to improve the information available on the level of salmon by-catch.

190. **CCSBT** stated that in the current review period its members had implemented measures to mitigate seabird by-catch during longline fishing operations (e.g., through the use of Tori poles) and had continued to examine further by-catch mitigation measures through the CCSBT Ecologically Related Species Working Group. Information on by-catch and discards had been collected by observers and their reports and other recent data would be reviewed by the Working Group at its meeting in 1998.

191. **CCAMLR** stated that it had been leading most international organizations in the establishment of a set of measures to reduce and prevent the incidental mortality of seabirds in longline fisheries.

192. **OLDEPESCA** has advised that it had no information relating to fisheries by-catch, discards or the incidental capture of seabirds within its area of competence.

193. **CPPS** has stated that it had no detailed information concerning by-catch and discards and the incidental catch of seabirds. It pointed out, however, that some countries, including Peru and Chile, had commenced work on discards in the industrial anchovetta fishery with a view to eliminating the practice of discarding.

## E. Information provided by other intergovernmental organizations

194. The **Council of Europe** indicated that, in a resolution adopted by its Parliamentary Assembly on the sustainable exploitation of living marine resources, it had invited its member States, to adopt, among other actions, practical measures to reduce by-catches and discards.

## F. Information provided by non-governmental organizations

195. **WWF** stressed that it had become increasingly concerned over the impact of certain types of fishing gear on marine ecosystems, such as bottom trawls and longlines, which had recently been demonstrated to have serious impacts on both non-target species and the marine environment itself. In view of this situation, it had joined with Bird Life International in calling upon the Secretary-General to include information on seabird mortality in longline fisheries in his report to the General Assembly. Although longlining had been regarded as an "environmentally friendly" fishing technique, it could result in high levels of by-catch, including of seabirds. Longline fishing was known to have been killing many thousands of albatrosses and related seabirds in the Southern Ocean, as seabirds became hooked while swallowing baited hooks during line setting and were subsequently drowned as the longline submerged.

196. WWF pointed out that well-proven mitigation measures nevertheless did exist, such as setting lines at night when few seabirds foraged, weighting lines so they sank quickly and towing streamer lines that scared birds away from fishing vessels. In addition, the recent development of underwater setting devices had shown excellent promise in reducing bird mortality, and the challenge now was for such mitigation measures to be widely adopted.

197. However welcome those developments were, WWF was of the view that they would not solve the problem of seabird mortality in all the oceans of the world. It was thus up to the General Assembly to take the opportunity to help control the fishing practices in longline fisheries. Consequently, in conjunction with Bird Life International WWF had called upon the Secretary-General to recommend that the General Assembly adopt a resolution expressing grave concern over the mortality of seabirds in longlines and urging the swift adoption of binding measures to mitigate such mortality. WWF was aware that the adoption of resolutions alone would not redress or reverse fisheries practices that had taken place over extended periods. Nonetheless, they would certainly help in bringing greater visibility to critical issues, as they reflected the widespread view of the international community that such activities were contrary to existing and evolving concepts and practices relating to sustainable fisheries management.

198. The **Japan Fisheries Association** reported that Japanese tuna fishing vessels operating in the CCSBT Convention area could obtain the authorization to do so from the competent authorities provided that they avoided incidental catch of seabirds in accordance with Japan's Fisheries Act and the regulations of the Ministry of Agriculture, Forestry and Fisheries. Compliance with those regulations was strictly enforced with penalties and the Japanese industry had been making great efforts to avoid incidental catch of seabirds, including development of seabird by-catch reduction measures.

199. **Humane Society International (HSI)** of HSUS has reported that the Government of Australia was about to release its threat abatement plan for longline fishing, since longline fishing had been listed under the Australian Endangered Species Protection Act of 1992 as a "key threatening process", in view of its severe impact on threatened albatross and giant petrel species. The listing also was the result of a proposal submitted by HSI-Australia.

200. Upon release of the plan, in the development of which HSI had been associated, mitigation measures would be mandatory, ultimately prompting a significant reduction in albatross mortality since its objective was to achieve a zero by-catch of seabirds.

201. HSI recommended that the mitigation measures prescribed in the threat abatement plan also be adopted for oceanic longline fisheries worldwide. To that end, it suggested the development of a Protocol to the Convention on Biological Diversity, providing binding agreements for by-catch mitigation methods in general.

202. **Greenpeace** expressed the view that legal and illegal longline fisheries operating in the Southern Ocean and elsewhere were posing a survival challenge to many species of seabird, particularly the albatross. It indicated that CCAMLR scientists estimated in 1997 that illegal fishing vessels alone had killed over 100,000 Southern Ocean seabirds annually. As a result, CCAMLR had adopted conservation measures, such as season limitations and night line settings, in the hope of reducing incidental seabird mortality. It realized, however, that compliance with those measures by legal fisherfolk had been less than 100 per cent, while illegal fishing vessels had killed many more seabirds than the legal vessels since the former did not abide by the rules to reduce seabird by-catch in any way whatsoever.

203. In this connection, Greenpeace had drawn a comparison between the forces driving the southern bluefin tuna fishery, with its massive toll of seabird deaths associated with longline fishing and those behind the illegal Patagonian toothfish fishery, and found that they both had the same underlying causes: (a) high prices resulting from declining stocks of commercially valuable species, coupled with increased global demand for such species; (b) overcapacity in the industrialized fishing vessel sector and growing fishing power linked to increasingly sophisticated fishing technology; (c) increasing investment in new vessel construction spurred by government subsidies supporting fleet migration to distant waters; (d) lack of political will and commitment by Governments to enforce precautionary management regimes and strict conservation to protect marine biodiversity; and (e) inadequate global trade regimes that had failed to provide disincentives to, and had even supported, the international trade in overfished species and/or species caught in fisheries that had threatened the survival of other marine species, such as seabirds.

204. Greenpeace also pointed out that the increase in the catch size and technical capacity of both the legal and illegal fishing fleets worldwide, of all gear types and in all areas, had grave consequences not only for the target fish stocks, but also, as a result of by-catch, for numerous other marine species. In that connection, it concurred with the opinion expressed by FAO that in a previous report to the Secretary-General, that a reduction of the world's excess fishing efforts on marine fish was the one action that would provide the greatest improvements in the situation of by-catch and discards in certain fisheries. Without such control, Greenpeace felt that other solutions to the by-catch and discard problem would be less effective and real success in efforts towards improved management of the ocean's resources would be more difficult to attain (A/50/552, para. 11).

# VI. Efforts undertaken in FAO concerning incidental catch of seabirds in longline fisheries; conservation and effective management of shark populations; and management of fishing capacity

## A. Reduction in the incidental catch of seabirds

### 1. Information provided by States

205. **Japan** indicated that, in March 1998, in cooperation with FAO, it had hosted an international conference on the reduction of incidental catch of seabirds.

### 2. Information provided by FAO

206. **FAO** reported that, at the twenty-second session of the Committee on Fisheries (COFI), it had been proposed that FAO, in collaboration with Japan and the United States, organize consultations of experts from inside and outside Governments to develop and propose guidelines leading to a plan of action aimed at reducing incidental seabird catches. Japan and the United States agreed to fund such an exercise, and a steering group consisting of representatives from the two Governments and from FAO was established. The group was assigned the responsibility of preparing the necessary background papers and, together with an expert appointed by FAO, developing a draft plan of action.

207. The group of experts from regions where seabirds in longline fisheries was considered a problem met at Tokyo from 25 to 27 March 1998 and reached agreement on the contents of the draft plan of action, the provisions of which would be discussed and eventually endorsed by FAO in October 1998.

### 3. Information provided by regional and subregional fisheries organizations

208. **WECAFC** was of the view that the above-mentioned March 1998 meeting of the group of experts at Tokyo on the reduction of the incidental catch of seabirds would have an impact on fisheries in the WECAFC region.

### 4. Information provided by non-governmental organizations

209. **WWF** and **Bird Life International** stated that they had been encouraged by the initiative of the FAO Committee on Fisheries to hold an expert consultation in late October 1998 on the subject of seabird mortality with a view to developing a plan of action on that issue.

210. **Greenpeace** believed that the FAO draft plan of action to reduce seabird by-catch in longline fisheries had failed to address the main issue of excess fishing capacity. Although the plan considered the reduction of the number of encounters between seabirds and baited hooks to be essential for reducing the incidental catch of seabirds, Greenpeace was of the view that it was vital to place mitigation measures within the context of overfishing and overcapacity. Thus, the single most important action that ought first to be taken by Governments was swift action to reduce excess fishing capacity, particularly in the longline fishing sector. The FAO action plan for protection of seabirds in longline fisheries should be explicitly linked to the development of an FAO action plan to eliminate excess fishing capacity in the global longline fishing sector generally, and particularly in those regions where interactions with albatross and other endangered seabird populations were prevalent and of great concern, for example in continental shelf areas and around known migratory routes of albatross lying within or adjacent to the Southern Ocean.

## B. Conservation and effective management of shark populations

### 1. Information provided by FAO

211. **FAO** reported that there was widespread international concern over the increase in shark fishing and its consequences for populations of shark species in several areas of the world's oceans. Currently few countries actually managed their shark fisheries and there were almost no international management mechanisms actively addressing the capture of sharks. However, there were indications that an international consensus was emerging on the need for improved control of fishing for shark species, including skates and rays. The prevailing view was that it was necessary to control directed shark fisheries and some fisheries in which sharks constituted a significant by-catch.

212. In 1994, the Ninth Conference of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) had adopted a resolution on the biological and trade status of sharks, requesting, *inter alia*, that: (a) FAO and other international fisheries management organizations should establish programmes to collect and assemble the necessary biological and trade data on shark species; and (b) all nations utilizing and trading in specimens of shark species should cooperate with FAO and other international fisheries management organizations.

213. Moreover, both the Code of Conduct for Responsible Fisheries and the Kyoto Declaration and Plan of Action of December 1995 had called for the conservation of biological diversity and the sustainable use of its component species, as well as the minimization of waste and discards. FAO stressed that its activities which intended to promote those objectives were in progress under a project funded by the Government of Japan. Such activities would contribute, *inter alia*, to the study of the biological and trade status of sharks.

214. In addition, FAO had organized, as suggested by COFI in 1997, a consultation of experts to develop and propose guidelines leading to a plan of action for shark conservation and management. Accordingly, a technical working group of experts had met at Tokyo from 23 to 27 April 1998, and deliberated on technical guidelines for shark conservation

and management and elements of a draft plan of action. As a follow-up, consultations would be convened in October 1998 at FAO headquarters in Rome with a view to: (a) determining the specific requirements for sustainable global and regional management of shark species; and (b) endorsing a plan of action aimed at promoting the widespread use of those guidelines by appropriate management bodies and arrangements (at the national, and/or regional, and/or international levels). The results of the consultation would be submitted to COFI for adoption at its next session in February 1999.

215. The plan of action was to be communicated to FAO members and to international fisheries management organizations or arrangements. Such a plan was expected to contain strategies for: (a) strengthening the availability of information on shark stocks and shark fisheries globally; (b) indicating priorities for allocating public resources to secure the minimum, essential information required for management of shark fisheries; (c) developing a global approach (for national Governments and regional and international management organizations) in addressing global priority issues in conservation and management of sharks, including the reduction of discards where practicable; and (d) monitoring the implementation of shark fishery management.

### 2. Information provided by regional and subregional fisheries organizations

216. **CCSBT** indicated that the issue of shark conservation and management was related to CCSBT's area of competence and was therefore being considered by its Ecologically Related Species Working Group. Future action by CCSBT would take into account advice provided by the Working Group.

217. **OLDEPESCA** stated that it did not have a specific programme of work on the conservation and management of sharks. However, the issue was viewed by members as a general matter within the context of trade and environmental issues.

218. **CPPS** has reported that the conservation and management of sharks did not warrant a special programme within the Commission in view of the small quantities of sharks harvested. Nonetheless, it recognized the importance of the shark fishery for artisanal fisherfolk.

219. **NAFO** has indicated that it does not address shark management and conservation.

220. **NASCO** pointed out that the organization had been established to contribute to the conservation, restoration, enhancement and rational management of Atlantic salmon and that the issue of shark conservation and management was not within its area of competence.

221. **IBSFC** has advised that there were no sharks in the Commission's Convention area.

## C. Management of fishing capacity

### 1. Information provided by FAO

222. FAO has informed the Secretary-General that consultations on the management of fishing capacity, shark fisheries and incidental catch of seabirds in longline fisheries will be held in Rome from 26 to 30 October 1998 pursuant to the initiatives announced at COFI in March 1997. A preparatory meeting had been held in July 1998 with a view to considering outlines of the key elements for declarations and/or plans of action on those issues, including a declaration and/or plan of action on the management of fishing capacity.

223. FAO had also convened a meeting of a technical working group of independent experts on the management of fishing capacity in La Jolla, United States, in April 1998. At the meeting, the technical working group had reviewed: (a) the various issues related to measurement and monitoring; (b) management and reduction methods; (c) broader policy and institutional considerations; and (d) specific high seas aspects.

224. In addition, the group emphasized the timeliness of the meeting and stressed the need for countries and the international community urgently to take steps to address and prevent overcapacity as recommended by the Code of Conduct for Responsible Fisheries. In this connection, they agreed on the need to: (a) develop more appropriate measurement methods and monitoring mechanisms, including fishing vessel registry; (b) give far greater emphasis to fleet monitoring and the assessment of fleet dynamics; (c) adopt policies clearly specifying access conditions; (d) give a greater priority to management methods aiming at adjusting rather than blocking the pervasive tendency for overfishing and over-investment resulting from open access conditions; (e) reassess and strengthen current management methods and implementation procedures, in recognition that the applicability of available management methods would nevertheless remain situation-specific; and (f) approach the reduction of fishing capacity with care, avoiding spillover effects and carefully controlling the induced effects of scrapping programmes.

225. The technical working group also had provided guidance and made a number of recommendations to better address the issues within national jurisdiction. It had recognized that the high seas might be confronted with an even greater over-capitalization problem than that of the exclusive economic zone fisheries, owing to the prevalence of rather open access conditions and the fact that there were currently no internationally agreed measures to cause States to control fishing capacity. The group therefore had recommended that the 1995 Fish Stocks Agreement and the Compliance Agreement be urgently ratified and accepted respectively.

226. The FAO group had further suggested that complementary measures should be required, aiming in particular at: (a) improving monitoring mechanisms for high seas fleets; (b) strengthening and empowering regional fishery organizations; (c) creating new organizations to ensure full coverage of the resource concerned; (d) controlling the disposal ("dumping") of excess national capacity in general, and of older vessels to developing countries in particular; and (e) addressing the growing importance of flags of convenience. The group was also of the view that much research work and institutional building efforts needed to be carried out at both national and international levels to improve current capacities to address properly many issues pertaining to the effective control and reduction of fishing capacity.

### 2. Information provided by regional and subregional fisheries organizations

227. **CCSBT** reported that the main conservation and management strategy adopted by the Commission was the setting and allocation of quotas. Fleet capacity had been raised in discussions within CCSBT as there were concerns that the southern bluefin resources might not be able to sustain the current level of fishing effort by member and non-member fleets.

228. **IBSFC** has informed the Secretary-General that fleet capacity management is handled by the Contracting Parties and not by the Commission.

229. **OLDEPESCA** has advised that it does not have competence in the area of fleet management.

230. **CPPS** has stated that, with respect to fleet capacity management, the Commission does not have information on large-scale pelagic drift-net fleets, but both industrial and artisanal fleets in its area of competence are subject to management.

### 3. Information provided by other intergovernmental organizations

231. The **Council of Europe** has expressed the view that, given the excessive fishing effort, any fleet modernization programme ought to take account of predictable stock levels, the specific situation of the fishing sector and fishing community in each country, in particular by taking into consideration the size of the fishing fleets in relation to the size of stocks. The Council was opposed to all management measures based solely on policies of dismantling vessels, and any measure of compulsory reduction of fishing effort ought to be coupled with social support measures for fisherfolk and, if necessary, compensation for shipowners.

### 4. Information provided by non-governmental organizations

232. **Greenpeace** believed that the very serious problem of unauthorized fishing in zones of national jurisdiction and on the high seas, and the problem of destructive by-catch/discards in fisheries, were symptoms of the chronic refusal of Governments to resolve the matter of overcapacity in the industrial fishing sector. Despite numerous global calls in the 1990s to reduce fishing capacity, those nations that needed to act urgently to reduce their fishing fleets had failed to do so.

233. According to a study Greenpeace had commissioned in 1997 entitled "Assessment of the World's Fishing Fleet 1991–1997", a total of 1,654 fishing vessels had been added to the world's fleet from 1991 to 1996, and with orders for 244 new vessels of over 100 gross tonnes in 1997, it was convinced that the industry was returning to the trend of constructing fishing vessels with large tonnage. In this connection, Greenpeace pointed out that roughly 82 per cent of the new additions to the world's fishing fleet in the period 1991–1995 were made by just 14 States or entities, of which four (Japan, European Union, Honduras and Russian Federation) accounted for 53 per cent. Fifteen per cent of the new additions belonged to four countries (Honduras, Liberia, Panama and Cyprus) offering open registers, commonly referred to as flags of convenience.

234. According to Greenpeace's study, new fishing vessel construction trends had shown that more vessels were being built with technology for fishing either for large amounts of relatively low-valued species or for widely distributed species at depths that were previously technologically and economically unattainable. Moreover, the vessels' fishing power had also been increasing: a factory trawler built in 1995 would have two and half times the fishing power of a

similar-sized factory trawler built in 1980, and was provided with more advanced fishing technology.

235. Greenpeace's calculations had shown that, while the world's fishing fleet had increased by 3 per cent in terms of tonnage between 1992 and 1997, it had actually increased by 22 per cent in terms of potential fishing capacity through new additions to the fleet and refits. Such a substantial increase in the industrialized fishing fleet in just five years represented a blatant rejection of common-sense global calls for a reduction in fishing effort in order to relieve fishing pressure on overexploited stocks and help their recovery. To achieve this goal, Greenpeace had recommended a 50 per cent reduction in the current size of the industrialized fleet.

236. In addition, Greenpeace has found that of the 3.5 million fishing vessels estimated by FAO to be fishing worldwide, only 35,000, or 1 per cent of that number, were classified as large-scale, industrialized vessels. These were responsible for the greater part of the landed catch of the world's marine fisheries and were the main contributors to the global annual average of 28 million tons of discarded by-catch.

237. Greenpeace thus suggested that, in striving for the recovery of world fisheries and the establishment of ecologically responsible fishing, the Governments of the chief marine fisheries countries should opt for cutting fishing effort in the industrial sector rather than in small-scale, community-based fisheries, since industrialized fleets were involved in unregulated and illegal fishing on the high seas, especially in areas under the national jurisdiction of developing countries, they benefited from government subsidies, and generally did not contribute to food security in local communities. The small-scale, community-based fisheries tended to be less wasteful and more efficient in terms of resource use, employed more people and created less by-catch/discards by bringing ashore all catch for consumption by the families of the fisherfolk as well as other members of their communities.

238. Greenpeace was therefore seeking a substantial transformation from fisheries production dominated by large-scale, capital-intensive, destructive fishing methods to smaller-scale, community-based, labour-intensive fisheries using ecologically responsible, selective fishing technology and environmentally sound practices. It believed that fisheries ought to be prioritized to provide for essential nutritional and livelihood needs, particularly of those communities that were traditionally dependent on access to adjacent fisheries resources. It added that industrial fisheries for fishmeal and oil production should be progressively transformed to fisheries for human consumption.

239. Greenpeace called also upon the Governments of fishing nations to cut the numbers and capacity of large-scale fishing fleets by at least half by 2005 through: (a) elimination of government subsidies to industrialized fishing vessels and fleets; (b) imposition of a global moratorium on new industrialized fishing vessel construction; (c) establishment or enhancement of fishing vessel decommissioning schemes; (d) elimination of reflagging and flag-of-convenience fishing vessels; (e) ratification and implementation of the 1995 Fish Stocks Agreement; and (f) adoption and application of the Greenpeace Principles for Ecologically Responsible Fisheries, including strict application of the precautionary approach to fisheries management.

240. The Greenpeace Principles advocated "low-impact fisheries", with the objective of shifting fisheries management from maximizing short-term profits to minimizing environmental impacts, especially the risk of irreversible harm to fish stocks, marine wildlife and marine ecosystems. In this connection, reducing the intensity of fishing effort was paramount so that fish stocks could be maintained at much higher levels of abundance. Additionally, urgent measures should be implemented to reduce fishing capacity, and fishing efforts were to be deployed to levels in balance with the limited fisheries resources, particularly in the sector of large-scale, industrialized fishing fleets. To achieve this, Governments must eliminate all forms of subsidies and other aid that supported the expansion of fishing capacity, over-capitalization or the migration of their fishing fleets to distant waters.

*Notes*

[1] See FAO and Division for Ocean Affairs and the Law of the Sea, *International Fisheries Instruments with Index* (United Nations publication, Sales No. E.98.V.11).